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VUZIX CORPORATION - V. - RICARDO ANTONIO
PEARSON

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NEW SEARCH

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DOCKET NO. 1

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

-against-

Index No.:

Date Purchased: _____

SUMMONS

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.
-----X

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action and to serve a copy of your answer, or, if the Verified Complaint is not served with this Summons, to serve a notice of appearance, upon the Plaintiff's attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

The basis for venue is that this action is based on the tortious acts and conduct of Defendant that have caused substantial injury to Plaintiff that occurred within this County. In addition, Defendant transmitted his defamatory articles to Seeking Alpha Inc., the owner and operator of the eponymous website, which has its headquarters at 345 Seventh Avenue, New York, New York.

Dated: New York, New York
April 5, 2018

Respectfully submitted,

SICHENZIA ROSS FERENCE KESNER LLP

By: 

Irwin Woltz

Thomas Scot Wolinetz

1185 Avenue of the Americas, 37th Floor

New York, New York 10036

Tel. No. (212) 930-9700

Attorneys for Plaintiff

Vuzix Corporation

To: Ricardo Antonio Pearson *a/k/a* Richard Pearson
191 Broadway, Apt 1E
Dobbs Ferry, New York 10522

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

-against-

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.
-----X

Index No.:

Date Purchased: _____

VERIFIED COMPLAINT

Plaintiff Vuzix Corporation ("Vuzix"), by and through its undersigned attorneys, as and for its Verified Complaint against Defendant Ricardo Antonio Pearson a/k/a Richard Pearson ("Pearson"), alleges and states as follows:

NATURE OF THE ACTION

1. Vuzix brings this action to recover substantial damages against Pearson for his false and defamatory statements. Vuzix is a leading supplier of Smart-Glasses and Augmented Reality technologies and products for the consumer and enterprise markets. It is a growing and well-run company with a seasoned management team, notable investors and strategic partners. In fact, Vuzix has received numerous awards and accolades for its products and designs, and holds 66 patents (43 additional patents pending) and numerous IP licenses in the near-eye display field. Notably, in January 2015, Intel Corporation purchased \$24,813,000 of Vuzix's Series A Preferred Stock, and in December 2017 Vuzix entered into a 3-year supply agreement with Toshiba Information Equipment (Hangzhou) Co., Ltd. ("Toshiba") for a Smart Glasses designed and built for them by Vuzix. Vuzix's total revenues have also been growing as Vuzix's overall sales for 2017 exceeded \$5 million, which is a 160% increase over the prior year.

2. Pearson recently published false and defamatory “short and distort” articles about Vuzix via *Moxreports.com* and *Seeking Alpha* (the “Pearson Articles”). Pearson’s scheme is that he takes a short position in shares of public companies and then publishes false and defamatory articles about such public companies to drive the share price down in order to obtain a hefty profit for himself when he covers his short position. This is exactly what Pearson did to Vuzix. In fact, as a direct and proximate consequence of Pearson’s lies, Vuzix’s share price quickly dropped in value from \$7.65 to \$5.15, a decrease of over 30% in per share value.

PARTIES

3. Plaintiff Vuzix Corporation is a Delaware Corporation, with its principal place of business located at 25 Hendrix Road, West Henrietta, New York 14586. Vuzix is publicly traded on NASDAQ under the symbol “VUZI.”

4. Upon information and belief, Defendant Ricardo Antonio Pearson *a/k/a* Richard Pearson is an individual residing at 191 Broadway, Apt 1E, Dobbs Ferry, New York 10522. Pearson used the *Moxreports.com* and *Seeking Alpha* to spread his false and defamatory statements about Vuzix. *Moxreports.com* is a website run by Pearson. *Seeking Alpha* is an internet website focused on the financial markets that publishes content written by its members.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Pearson pursuant to CPLR § 301 because Pearson is a resident of New York.

6. Venue is proper in this Court because this action is based on the tortious acts and conduct of Pearson that have caused substantial injury to Vuzix that occurred within this County. In addition, Pearson transmitted his defamatory articles to Seeking Alpha Inc., the

owner and operator of the eponymous website, which has its headquarters at 345 Seventh Avenue, New York, New York.

BACKGROUND

Vuzix Is An Industry Leader

7. Founded in 1997, Vuzix is engaged in the design, manufacture, marketing and sale of wearable display devices. These devices are worn like eyeglasses and feature built-in video screens that enable the user to view and interact with video and digital content, including movies, video games, computer data and the Internet. Vuzix's wearable display products are known commercially as Smart and Augmented Reality Glasses, Video iWear (Eyewear) and head mounted displays (or HMDs). These products are capable of providing virtual, large high-resolution screens and yet they can fit in a user's pocket or purse and can be viewed practically anywhere and at anytime.

8. Vuzix's devices can also be used for Augmented Reality applications in which the user has their real world view augmented with computer generated information. Vuzix's products are designed to work with mobile electronic devices, including cell phones, laptop computers, tablets, portable media players and gaming systems.

9. Vuzix produces and sells two main types of wearable display products: Smart Glasses for a variety of enterprise and commercial users and applications, including Augmented Reality, and Video Viewing glasses for on-the-go users as mobile displays for entertainment and gaming. Vuzix's products are available with varying features, including with and without application running computer processors, and are offered as either monocular or binocular display systems. With its origins in defense research and development for next-generation

military display solutions, Vuzix is now focused on pursuing the enterprise and consumer markets for wearable computing and personal Augmented Reality display devices.

10. Since 2005, Vuzix has won numerous Consumer Electronics Show (“CES”) awards for innovation, as well as several wireless technology innovation awards, amongst others.

11. As a respected industry pioneer and leader, Vuzix maintains a strong intellectual property portfolio consisting of 66 patents issued and an additional 43 pending. Some of its competitive technology differentiators include Passive and Dynamic Holographic waveguide optics for existing micro displays, user interface gesture control and ambient light transmission control, LED micro scanning display engine, large field of view HD optics, and full color waveguide optics with active development plans for curved see-through optical imaging waveguides.

12. The most recent product introduced by Vuzix is the Vuzix Blade™ (the “Blade”). The Blade is the first Augmented Reality Smart Glasses featuring Vuzix’s advanced waveguide optics for hands-free mobile computing connectivity and location aware Augmented Reality content. The Blade provides the user with the wide range of features and capabilities in a natural glasses form factor, and such features range from basic text messaging and answering the phone to overlaying mapping directions, menus, weather, events, stocks, video conferencing, sports updates, social feeds, bio-metrics and more, right in front of the user.

13. The Blade allows the user to intuitively navigate via simple swipes and taps on its eyeglass temple frame, or leverage voice controls and external AI systems. This allows users to leave their phones in their pockets for most functions and adds the ability to connect the information being presented to the real world, including that from cloud based AI solutions like Amazon Alexa. The Blade will help track a user’s health levels for fitness activities to getting

the *Yelp* score for the user's next dinner and with its built in camera will easily allow social media sharing by simply recording the events at hand. The Blade also delivers a "hands free" connection of the digital world to the real world, providing unprecedented access to location-aware connected information. The Blade's private, see through, full color, bright, high resolution display screen performs both indoors and outdoors.

14. Vuzix is managed by a seasoned team of experienced and dedicated professionals, including:

- a. **Paul J. Travers**—Paul J. Travers is a founder, the Chief Executive Officer, President and a Director of Vuzix. Mr. Travers has served as Vuzix's President and Chief Executive Officer since 1997 and as a member of the board of directors since November 1997. Prior to the formation of Vuzix, Mr. Travers founded both e-Tek Labs, Inc. and Forte Technologies Inc. He has been a driving force behind the development of Vuzix's products for the consumer market. With more than 30 years of experience in the consumer electronics field, and 15 years of experience in the virtual reality and virtual display fields, he is a nationally recognized industry expert. He holds an Associate degree in engineering science from Canton, ATC and a Bachelor of Science degree in electrical and computer engineering from Clarkson University.
- b. **Grant Russell**—Grant Russell is the Chief Financial Officer, Executive Vice-President, Treasurer and a Director of Vuzix. Mr. Russell has served as Vuzix's Chief Financial Officer since 2000 and as a member of the board of directors since April 2009. From 1997 to 2004, Mr. Russell developed and subsequently sold a successful software firm and a new concept computer store and cyber café. In 1984, he co-founded Advanced Gravis Computer ("Gravis"), which, under his leadership as President, grew to become the world's largest PC and Macintosh joystick manufacturer with sales of \$44,000,000 worldwide and 220 employees. Gravis was listed on NASDAQ and the Toronto Stock Exchange. In September 1996, Gravis was acquired by a US-based Fortune 100 company in a successful public tender offer. Mr. Russell holds a Bachelor of Commerce degree in Finance from the University of British Columbia and is both a US Certified Public Accountant and a Canadian Chartered Accountant.
- c. **Paul Boris**—Paul Boris is the Chief Operating Officer and a Director of Vuzix. Mr. Boris joined Vuzix after spending two plus years at General Electric ("GE") in a variety of executive leadership roles including CIO of Advanced Manufacturing Strategy, Site Leader of the Advanced Manufacturing and Software Technology Center and most recently as the Vice President of

Manufacturing Industries of GE Digital. As CIO of Advanced Manufacturing Strategy for GE, he focused on driving GE's innovative factory strategy to increase productivity and deliver the optimization of assets and operations. In his most recent role, Mr. Boris focused on defining and enabling GE's commercial strategy for Brilliant Manufacturing by working with companies to accelerate their own digital transformation. Prior to working at GE, Mr. Boris spent over eight years in a variety of executive roles overseeing manufacturing and operations strategy at SAP. Mr. Boris was the dynamic force behind the Perfect Plant initiatives at SAP where he was Global Vice President, Enterprise Operations Management. He served as director at the National Association of Manufacturers, the US's largest industrial trade association for just under five years to 2014. Mr. Boris' breadth of manufacturing operations and technology-related capabilities and experiences enable him to bring significant value to Vuzix.

15. Vuzix has attracted the attention of significant investors and strategic partners. On January 2, 2015, Intel Corporation purchased \$24,813,000 of Series A Preferred Stock. Each share of Series A Preferred Stock is convertible into 100 shares of common stock and votes on an as-converted basis with the common stock. If converted, this represents a 15% ownership stake based upon the current number of outstanding common shares.

16. On December 6, 2017, Vuzix entered into a supply agreement (the "Master Supply Agreement" or "MSA") with Toshiba. The MSA sets forth the general terms and conditions, including with respect to product quality, product changes, minimum order quantities and deliveries and pricing pursuant to which Vuzix will sell to Toshiba and its affiliates the Smart Glasses product that was developed pursuant to a development agreement between Vuzix and a Toshiba affiliate. Any such sales will be made pursuant to purchase orders which Toshiba may submit to Vuzix in its discretion.

17. Pursuant to the MSA, Vuzix agreed to sell such product exclusively to Toshiba for a period of up to 12 months, subject to Toshiba's submitting a minimum of \$5,000,000 of purchase orders. The product is being co-branded and labelled as a Toshiba product, "Powered

by Vuzix” and is expected to be sold on a global basis by Toshiba Client Solutions group, which will bundle the Smart Glasses unit with a specially designed mobile edge computing system that Toshiba principally developed for this program. The MSA has a three year term, subject to earlier termination under certain conditions. Vuzix recently received its first purchase order from Toshiba totaling \$1,068,000.

18. Vuzix continues to grow its business and operations. In fact, overall revenues for 2017 exceeded \$5 million, which is a 160% increase over the prior year, and Vuzix now has 63 full-time employees with offices in New York, the United Kingdom, Spain and Japan.

Pearson’s Short And Distort Scheme Directed At Vuzix

19. This action arises from a classic “short and distort” scheme. In such a scheme, short-sellers borrow securities, sell them and then drive the price of their target company’s stock down by spreading materially false, misleading, defamatory and disparaging information about the company. Once the company’s stock drops to an artificially low price, ideally zero, the short-sellers repurchase and return the borrowed securities, pocketing the difference. This is precisely what Pearson has done and continues to do against Vuzix.

20. On March 16, 2018, Pearson published a short and distort “report” on *Moxreports.com* and on March 20, 2018 Pearson published another hit piece entitled “*Vuzix: Far Worse Than Anyone Had Imagined*” on *Seeking Alpha*. *Seeking Alpha* requires no educational, professional or journalistic credentials to publish on its website. *Seeking Alpha* does not check into the factual authenticity of the posted content or validate that the author’s opinions are worthy of merit. Indeed, *Seeking Alpha* disclaims any responsibility for the content of what appears on its website.

21. The Pearson Articles were distributed globally on the Internet. Upon information and belief, the Pearson Articles have been disseminated or linked to other websites, as well.

22. The Pearson Articles are riddled with false, misleading and defamatory statements about Vuzix. Pearson was motivated by a malicious desire to destroy Vuzix's business and depress its share price so that Pearson could profit from short selling his shares of Vuzix's stock. Not surprisingly, Pearson specifically states in the Pearson Articles that "[t]he author is short VUZI."

The False And Defamatory Statements

23. The statements, implications and meanings set forth in the Pearson Articles that are identified below are among the many false and libelous statements in the Pearson Articles. Pearson knew and intended that the statements set forth in the Pearson Articles, including those identified below, would convey false and defamatory implications and meanings concerning Vuzix to any person reading it or being informed of its contents, as to cause panic and uncertainty regarding investment in Vuzix, including and especially in the eyes of Vuzix shareholders.

24. The statements, implications and meanings set forth in the Pearson Articles, including those identified below, were published by Pearson with malicious motives, as part of Pearson's desire to damage Vuzix and decrease its share price for his own personal gain and to the detriment of Vuzix's shareholders.

25. At the time of the publication of the Pearson Articles, Pearson acted with actual malice in that Pearson knew that the defamatory statements, implications and meanings, including those identified below, were false, and nonetheless published them in reckless

disregard of their falsity, or alternatively, published them without reasonable grounds for believing that the statements, implications and meanings were true.

**False And Defamatory Statements, Implications And Meanings
Regarding Vuzix's General Business and Operations**

26. Pearson falsely states in the *Seeking Alpha* article that: "Vuzix is a stock promotion which shows blatant signs of fraud. The setup here is nearly identical to the dozens of other stock frauds or promotions I have exposed here at Seeking Alpha over the past few years." This statement is both false and defamatory.

27. Vuzix is not a fraud. It has been in business for over 20 years and is a vibrant, growing and well-managed company with award winning products and technologies.

28. These statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix, at its core, is a fraud. These statements, implications and meanings are false and defamatory.

**False And Defamatory Statements, Implications And Meanings
Regarding Vuzix Going Public**

29. Pearson falsely states in the *Seeking Alpha* article that: "Vuzix Corp. is a reverse merger stock promotion which shows blatant signs of fraud." This statement is both false and defamatory.

30. In fact, Vuzix became a public entity by its initial public offering - and not a reverse merger - on December 24, 2009 with its filing and acceptance of its S-1 Registration statement by the United States Securities and Exchange Commission (the "SEC"). Vuzix initially commenced trading on the TSXV in Canada thereafter and became listed on the OTC markets in 2010 before subsequently up-listing to the NASDAQ on January 28, 2015.

31. Soon after the publication of the *Seeking Alpha* article, *Seeking Alpha* acknowledged the falsity of this statement by virtue of the addition of an “Editor’s Note” stating that “This article previously called Vuzix a reverse merger company. We have removed that description from the article.”

32. This statement was intended by Pearson to be understood by members of the public who read or were informed of it to have false and defamatory implications and meanings, including that Vuzix, at its core, is a fraud. This statement, implication and meaning is false and defamatory.

**False And Defamatory Statements, Implications And Meanings
Regarding Vuzix’s Revenues**

33. Pearson states in the Pearson Articles that Vuzix has “Revenues: \$0.5 million per quarter (negative gross margins).” This statement is both false and defamatory.

34. In fact, Vuzix’s revenues by quarter in 2017 were approximately \$1.2 million (Q1), \$1.3 million (Q2), \$1.4 million (Q3) and \$1.6 million (Q4). Further, as shown, overall revenues for 2017 exceeded \$5 million, which is a 160% increase over the prior year.

35. This statement was intended by Pearson to be understood by members of the public who read or were informed of it to have false and defamatory implications and meanings, including that Vuzix is a fraud with minimal revenue and not worthy of investment. This statement, implication and meaning is false and defamatory.

**False And Defamatory Statements, Implications and Meanings
Regarding Vuzix’s Agreement With Toshiba**

36. Pearson falsely claims in the Pearson Articles that Vuzix is paying Toshiba \$5 million as part of the MSA with Toshiba. He states in the *Seeking Alpha* article that: “Meanwhile, Vuzix has made it a point to aggressively tout a \$5 million ‘purchase agreement’

with Toshiba. In fact, this agreement is really just manufacturing agreement whereby Vuzix is the one paying \$5 million to Toshiba. The wording states clearly that Toshiba will ‘fulfill the initial purchase order received by Toshiba’.” These statements, implications and meanings are false and defamatory.

37. In fact, Vuzix is not paying \$5 million to Toshiba. Vuzix has a business relationship with Toshiba that includes the MSA requiring Toshiba to place a \$5 million minimum of orders over the first 12 months of the MSA in order to maintain exclusivity for a custom pair of Smart Glasses that was developed and manufactured by Vuzix, and is being delivered to Toshiba by Vuzix. These amounts will be in addition to the approximately \$1.1 million Vuzix received from Toshiba Japan for the development of custom co-branded product, originally announced by Vuzix in February 2017. The engineering and development work has been completed and the product has moved into mass production at the request of Toshiba.

38. As alluded to above, Vuzix received the first purchase order from Toshiba under the MSA on March 12, 2018 and filed a Form 8-K with financial details on the initial purchase order received from Toshiba, totaling approximately \$1.1 million, on March 13, 2018.

39. These statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix does not have any legitimate agreement with Toshiba. These statements, implications and meanings are false and defamatory.

**False And Defamatory Statements, Implications And Meanings
Regarding The Blade**

40. Pearson falsely claims in the *Seeking Alpha* article that: “The Blade appears to be a sham. NONE of the journalists could get the critical Alexa feature to function, yet precisely

ALL of them aggressively touted ‘Alexa’ in reviews. The second video appears to be taken in someone’s apartment, not at CES at all.” These statements, implications and meanings are false and defamatory.

41. In fact, the Blade works as reported. A *Tom’s Guide* Senior Editor interviewed Vuzix representatives at CES and recorded a video while operating Alexa voice assistant on the Blade from CES on the public tradeshow floor at Vuzix’s exhibit booth. The video interview and Alexa demonstration on the Blade was recorded and uploaded to the *Tom’s Guide YouTube* page on January 12, 2018. Vuzix also posted a 2.5-minute-long video demonstrating Alexa running on the Blade from CES on January 12, 2018, and on Vuzix’s *YouTube* page on January 12, 2018. Vuzix later received email verification from *Tom’s Guide* that the interview, video and recording were indeed recorded at CES 2018.

42. Additionally, Pearson falsely claims in *Moxreports.com* that: “Vuzix’s ‘Blade’ is a little more than a low tech mock-up which serves as a prop for journalists to conduct sham reviews. When these journalists ‘reviewed’ the product at CES, neither the Alexa feature nor the browser were functioning – not for any of the journalists. Yet these same journalists then widely touted the device in their mainstream bylines, overwhelmingly on the basis of the Alexa features that actually don’t exist!” These statements are false and defamatory.

43. In fact, the Blade supports Amazon Alexa. The full commercial release of the Blade will also ship with support for the Alexa voice assistant. There are multiple visual and actual examples of Alexa running on the Blade at CES 2018 and at the Mobile World Congress (“MWC”). Further, the Blade will commence volume production in the second quarter of 2018 at Vuzix’s upstate New York plant.

44. Vuzix has developed its own intellectual property portfolio, with over 20 years of manufacturing know-how, and proprietary processes, materials and equipment to create high performance waveguides and near-eye display products. Vuzix's technology, intellectual property portfolio and position in the marketplace gives Vuzix a leadership position in Augmented Reality and Smart Glasses products, waveguide optics and display engine technology.

45. The Blade is the third product introduced by Vuzix that utilizes its waveguide optics and display engine technology, and is certainly not a "low tech mock-up." The first generation products were sold to the U.S. military and industrial customers as the M2000AR. Vuzix demonstrated the Blade, operating a series of demonstration apps, to an estimated 4,000 industry professionals, including independent members of the media at CES and MWC in January and February 2018, and received overwhelmingly positive feedback.

46. Pearson's statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix does not have any legitimate products, that Vuzix has been lying to the public about the Blade and that the Blade is a scam. These statements, implications and meanings are false and defamatory.

**False And Defamatory Statements, Implications and Meanings
Regarding Vuzix's Public Relation Activities**

47. Pearson falsely claims in the Pearson Articles that Vuzix has paid journalists or other media to give positive reviews about the Blade. These statements, implications and meanings are false and defamatory. In fact, Vuzix has never paid anyone to give its products a positive review.

48. Pearson falsely claims in *Moxreports.com* that: “Showstoppers.com creates a private closed door events which look (in the photos) like real public conferences. Showstoppers then hand selects all the journalists and submits to Vuzix weeks before any event. There is zero possibility of anyone saying anything negative or questioning the obvious problems.” These statements, implications and meanings are false and defamatory.

49. Vuzix has no idea which journalists, if any, will visit its booth at Showstoppers media events. In fact, Vuzix did not attend the Showstoppers event at CES 2018 at all, but rather attended a similar event called Pepcom 2018. The Pepcom 2018 CES event took place the night before the claimed Showstoppers event. There is no preview of attending journalists issued by the organizers of any of these industry tradeshow events, nor is there any one-on-one appointment system where attendees can connect or book appointments with exhibiting firms. Vuzix was just one of hundreds of exhibitors showing its new products and technologies to industry journalists. The Pepcom event is very similar to Showstoppers and is one of the three trade events of this nature each year at CES that takes place during the week of the CES conference and each event independently invites as many as 1,500 journalists, analysts and key industry influencers, or more, to visit with hundreds of leading consumer electronics companies. Vuzix was not in any way, shape or form involved in filtering this group of attendees.

50. Vuzix welcomed all journalists that stopped by and wanted a demo of the Blade or Vuzix M300 Smart Glasses at Pepcom (not Showstoppers) at CES 2018, as well as MWC where it also attended both Pepcom and Showstoppers in Barcelona, Spain in February 2018. Vuzix does not pre-screen or screen journalists before they visit its booth at such media events. By way of example, one journalist spent over an hour at Vuzix’s booth hands-on testing and reviewing the Blade at Pepcom at CES 2018. The opinions of the media surrounding Vuzix at

CES 2018 and MWC were based solely on the media's independent evaluation and opinions. Vuzix neither encouraged nor paid for any journalists to attend Pepcom or Showstoppers events or its booths at either CES or MWC, or to write reviews of any of Vuzix's products.

51. Pearson further falsely claims in the *Moxreports.com* that Vuzix through IRTH Communications ("IRTH") sponsored more than 30 articles from mainstream media outlets and that "Photos of leaked documents from IRTH Communications show IRTH bragging to potential clients that it was responsible for more than 30 articles from mainstream media outlets which all simultaneously erupted in connection with Margolis' 'Alexa ruse'. These specific IRTH sponsored articles were conspicuous in that they offered effusive praise for Vuzix but appeared as standard news on dozens of mainstream sites." These statements, implications and meanings are false and defamatory.

52. In fact, Vuzix utilizes both internal and external communications firms, including, but not limited to, IRTH. The mainstream media outlets that covered the Blade were gained via normal media outreach (non-paid) which resulted in earned media coverage based on the product and the technology. The opinions of the media surrounding Vuzix at CES 2018 and MWC were based solely on the media's independent evaluation and opinions with zero input, influence, or payment from Vuzix or any of its external communications firms.

53. These statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix does not have any legitimate products, that Vuzix has been paying for positive reviews (and press), and that anything positive said about Vuzix or its products was paid for by Vuzix. These statements, implications and meanings are false and defamatory.

Vuzix Has Been Damaged by Pearson's Malicious Defamation

54. As a direct and proximate result of Pearson's unlawful online smear campaign to sabotage Vuzix's business and crash its stock price while keeping a profit from his short position, Vuzix has suffered reputational harm and economic damages. In the immediate aftermath of the publication of the false statements and libel in the Pearson Articles, the price of Vuzix's share's plummeted from \$7.65 to \$5.15, a loss of more than \$80 million in equity market value.

55. Further, it is possible several putative shareholder class action lawsuits will be filed against Vuzix, which will incorporate the false and defamatory statements in the Pearson Articles. Vuzix is likely to incur substantial costs in dealing with these meritless suits, which were a likely foreseeable by-product of the Pearson Articles.

AS AND FOR A FIRST CAUSE OF ACTION
(Libel)

56. Vuzix repeats and realleges the foregoing paragraphs as if fully set forth herein.

57. Pearson wrongfully and maliciously intended to injure and defame Vuzix.

58. The foregoing statements, implications and meanings were compiled and published by Pearson without privilege or authorization in a manner that was false, misleading and libelous, and moreover were published with actual malice and malicious intent, or with reckless disregard of their truth or falsity, to harm Vuzix's business and reputation, to cause panic and fear among Vuzix shareholders, and to cause its share price to decline so that Pearson could reap huge short-term gains from transacting in Vuzix's securities.

59. By virtue of Pearson's false and defamatory statements Pearson damaged Vuzix's business and reputation, caused panic and fear among Vuzix shareholders,

encouraged other short sellers to join and rebroadcast his lies and short the stock, and caused Vuzix's share price to decline so that Pearson could reap huge short-term gains from transacting in Vuzix's securities.

60. Further, it is possible several putative shareholder class action lawsuits will be filed against Vuzix, which will incorporate the false and defamatory statements in the Pearson Articles. Vuzix is likely to incur substantial costs in dealing with these meritless suits, which were a likely foreseeable by-product of the Pearson Articles.

61. As a direct and proximate result of the foregoing conduct, Vuzix has suffered general and special damages.

62. As a result, Vuzix is entitled to monetary and punitive damages.

AS AND FOR A SECOND CAUSE OF ACTION
(Libel Per Se)

63. Vuzix repeats and realleges the foregoing paragraphs as if fully set forth herein.

64. Pearson knowingly published false and derogatory statements about Vuzix's business and securities; and moreover, such statements were calculated to damage Vuzix's business and reputation.

65. As a proximate result of Pearson's unlawful conduct, Vuzix is entitled to monetary and punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant, as follows:

- (a) A judgment for damages against Defendant in an amount to be demonstrated at trial, but in no circumstances less than the sum of \$80,000,000.00 (Eighty Million Dollars);
- (b) Punitive damages in an amount to be

demonstrated at trial;

- (c) The costs, fees and disbursements of this action; and
- (d) For any such other relief in Plaintiff's favor that the Court may deem just, proper and equitable.

Dated: New York, New York
April 5, 2018

Respectfully submitted,

SICHENZIA ROSS FERENC KESNER LLP.

By: 

Irwin Wertz
Thomas Scot Wolinetz
1185 Avenue of the Americas, 37th Floor
New York, New York 10036
Tel. No. (212) 930-9700

*Attorneys for Plaintiff
Vuzix Corporation*

VERIFICATION

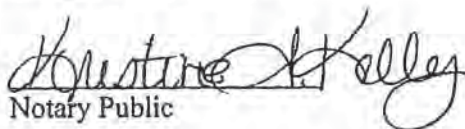
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Paul J. Travers, under penalties of perjury, deposes and says:

I am the Chief Executive Officer of Vuzix Corporation, which is the Plaintiff in this action. I have read the annexed Verified Complaint, know the contents thereof, and state that same are true to my knowledge, except those matters therein stated to be alleged on information and belief, and, as to those matters, I believe them to be true.


Paul J. Travers

Sworn to before me
this 5th of April 2018


Notary Public

KRISTINE A KELLY
Lic. #01KE6296545
Notary Public-State of New York
Qualified in Monroe County
COMM. EXP. 2/3/22

DOCKET NO. 2

At an Ex Parte Part of the
Supreme Court, New York
County, located at 60 Centre
Street, New York, on the ____
day of _____,
2018

PRESENT: _____, J.S.C.

-----X
VUZIX CORPORATION,

Plaintiff,

Index No.: 153125/2018

-against-

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.
-----X

**ORDER DIRECTING
MANNER OF SERVICE
AND EXTENDING
TIME TO SERVE**

UPON reading the Affirmation of Irwin Wertz, Esq., dated the 30th day of November, 2018, the exhibits annexed thereto, the accompanying memorandum of law and upon all of the pleadings and proceedings heretofore had herein, by which Plaintiff Vuzix Corporation (“Plaintiff”) has made proof that “good cause” and the “interest of justice” warrant an extension of time to effectuate service on Defendant Ricardo Antonio Pearson a/k/a Richard Pearson (“Defendant”) pursuant to CPLR Section 306-b, and that service of the Summons and Verified Complaint herein upon Defendant is impracticable under Paragraphs 1, 2, or 4 of CPLR Section 308.

NOW, upon motion of Sichenzia Ross Ference LLP, attorneys for the Plaintiff herein, for an Order of this Court extending the time to effectuate service and directing the manner in which the Summons and Verified Complaint shall be served upon said Defendant, it is hereby

ORDERED, that Plaintiff’s time to complete service of the Summons and Verified Complaint upon Defendant is extended to and including one hundred twenty (120) days from the

date of this Order; and it is further,

ORDERED, that pursuant to CPLR Section 308(5), a copy of this Order, the Summons and Verified Complaint and the Notice of Commencement of Action Subject to Mandatory Electronic Filing shall be served upon Defendant by: (1) e-mailing copies thereof to rick.pearson@pearsoninvestment.com and info@moxreports.com with the subject line of the e-mails stating "LEGAL PAPERS OPEN ATTACHMENT IMMEDIATELY"; and (2) sending a copy thereof to Ricardo Antonio Pearson a/k/a Richard Pearson, c/o Seeking Alpha Inc., 52 Vanderbilt Ave, Fl 13, New York, N.Y., 10017-3837 via regular U.S. Mail and Federal Express Overnight Mail and that proof of said forms of service be filed with this Court.

ENTER:

, J.S.C.

DOCKET NO. 3

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

Index No.: 153125/2018

-against-

AFFIRMATION
IN SUPPORT

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.
-----X

IRWIN WELTZ, an attorney duly admitted to practice law before the Courts of the State of New York affirms the truth of the following under the penalties of perjury:

1. I am a partner at Sichenzia Ross Ference LLP, attorneys for the Plaintiff Vuzix Corporation ("Plaintiff" or "Vuzix") in the above-captioned case. As such, I am fully familiar with the facts and circumstances set forth herein.

2. This affirmation is submitted in support of Plaintiff's Ex-Parte Application for an Order of this Court: (i) pursuant to CPLR §§ 2004 and 306-b, extending the time to effectuate service of the Summons and Verified Complaint and the Notice of Commencement of Action Subject to Mandatory Electronic Filing upon the Defendant Ricardo Antonio Pearson a/k/a Richard Pearson ("Defendant" or "Pearson"), *nunc pro tunc*, to and including one hundred twenty (120) days from the date of the Court's execution of the Ex-Parte Order; (ii) pursuant to CPLR § 308(5), permitting Plaintiff to serve Defendant via Pearson's known email addresses rick.pearson@pearsoninvestment.com and info@moxreports.com and at the address of c/o Seeking Alpha Inc., 52 Vanderbilt Ave, Floor 13, New York, N.Y. 10017-3837; and (iii) for such and other further relief in Plaintiff Vuzix Corporation's favor as the Court deems just and proper.

3. This is an action by Vuzix to recover damages against Pearson caused by his

publication of false and defamatory “short and distort” articles about Vuzix via *MOXReports.com* and *Seeking Alpha* (the “Pearson Articles”).

4. The Summons and Verified Complaint were filed with the Clerk of the Court on April 5, 2018. A true and correct copy of the Summons and Verified Complaint and the Notice of Commencement of Action Subject to Mandatory Electronic Filing is attached hereto as Exhibit A.

5. My firm did multiple online searches to try to locate Pearson, including searches on *Intellius.com*. The search for Pearson on *Intellius* showed a current address of 191 Broadway, Apartment 1E, Dobbs Ferry, New York 10522 (the “First Apartment”). A true and correct redacted copy of the pertinent parts of the *Intellius* report is attached hereto as Exhibit B. Internet searches for Pearson also show connections to Dobbs Ferry, New York.

6. My firm utilized Metro Attorney Service Inc. (“Metro”), a process service company, to serve Pearson. On May 1, 2018, Metro attempted to serve Pearson at the First Apartment. A true and correct copy of the first Affidavit of Attempted Service (“Affidavit”), sworn to on July 3, 2018, is attached hereto as Exhibit C. Although the Affidavit states that an adult male answered the door who “was later confirmed to be the defendant when the plaintiff supplied a photograph of the defendant to the deponent,” that later proved to be incorrect, when Metro subsequently advised my firm that the individual who answered the door was *not* Pearson. Exhibit C.

7. The *Intellius* report and other internet searches further show that other relatives of Ricardo A. Pearson also appeared to reside at 191 Broadway, Dobbs Ferry, New York. Therefore, Metro made other attempts to serve Pearson at the First Apartment on June 8, 2018, June 12, 2018, June 18, 2018, June 23, 2018, June 26, 2018 and June 27, 2018 at various times,

with nail and mail service attempted on June 27, 2018. A true and correct copy of the second Affidavit of Service, sworn to on June 27, 2018, is attached hereto as Exhibit D.

8. During this time, on June 13, 2018, Metro requested a picture of Pearson to aid in its service attempts. On June 13, 2018, my firm sent Metro a link to Defendant's profile page on *Seeking Alpha* (the "*Seeking Alpha* Profile Page") which contains a picture that Pearson apparently provided to *Seeking Alpha*. A true and correct copy of the *Seeking Alpha* Profile Page is attached hereto as Exhibit E. Although Metro initially responded that its process server believed that the adult male he had seen at the First Apartment on May 1, 2018 was Pearson, it later determined that that individual was not Pearson. Accordingly, since Metro was unable to verify that Pearson was residing at the First Apartment, its attempted nail and mail service on June 27, 2018 was not valid service.

9. On July 5, 2018, Metro attempted to locate Pearson at 14 Wainwright Avenue, Apartment 2B, Yonkers, New York, 10710 (the "Second Apartment"), another address listed as current in the *Intellius* report. See Exhibit B. A true and correct copy of the third Affidavit of Attempted Service, sworn to on July 9, 2018, is attached hereto as Exhibit F. At the Second Apartment, the stepmother of "Richard Pearson" stated that he lives in Dobbs Ferry with one "Burke Pearson." See Exhibit F.

10. An *Intellius* report for Tracy A. Burke, who can also be found online as Tracy Burke-Pearson, indicates she lived at 191 Broadway, Apartment 1C, Dobbs Ferry, New York 10522 (the "Third Apartment"), and that she is a relative of Ricardo Pearson. A true and correct redacted copy of the *Intellius* report for Tracy A. Burke is attached hereto as Exhibit G. On July 5, 2018, Metro attempted service at the Third Apartment. There, "Burke Pearson" told Metro that her husband Richard Pearson is not the same Richard Pearson as the Defendant in this

action. See Exhibit F.

11. Metro returned a final time to the First Apartment and was told by Allison Pearson that her boyfriend Mike Morano lives there and not Defendant Pearson. See Exhibit F.

12. Pearson's *Seeking Alpha* Profile Page states that he "spend[s] [his] time living between Los Angeles and Beijing, China." See Exhibit E. The *Intellius* report does not include a Los Angeles or Beijing, China address for Pearson. See Exhibit B.

13. Pearson has his own Profile Page on *Seeking Alpha*, which reveals that he has been a regular contributor since 2009, with 104 Articles, 1 Blog Post, 62 Comments, 18 StockTalks, 2 Likes and 5,302 Followers. See Exhibit E.

14. As shown on the website for the New York State ("NYS") Department of State, Division of Corporations, *Seeking Alpha Inc.* has an address at 52 Vanderbilt Ave, Fl. 13, New York, N.Y. 10017-3837. A true and correct copy of the listing for *Seeking Alpha Inc.* on the website of the NYS Department of State, Division of Corporations is attached hereto as Exhibit H. Paragraph 16 of the Terms of Use for *Seeking Alpha's* website supplies the company's address as 52 Vanderbilt Ave, New York, NY 10017, and instructs notices of claim of copyright infringement to be sent there. A true and correct copy of the *Seeking Alpha's* Terms of Use page on its website is attached hereto as Exhibit I.

15. Pearson's *Seeking Alpha* Profile Page has a link to *MOXReports*. See Exhibit E. *MOXReports* is another purported financial website, with articles published as recently as September 19, 2018. A true and correct copy of the *MOXReports* home page is attached hereto as Exhibit J.

16. *MOXReports* appears to be entirely run by Pearson. The "Biography" page on the *MOXReports* website only references Pearson. A true and correct copy of the *MOXReports*

“biography” page is attached hereto as Exhibit K.

17. The contact page on the *MOXReports* website lists no street address, but states that “[y]ou can also contact us directly at info@moxreports.com.” A true and correct copy of the *MOXReports* “contact” page is attached hereto as Exhibit L. No other contact information is provided.

18. Pearson also has a LinkedIn page with the same picture as his *Seeking Alpha* Profile Page (the “LinkedIn Profile Page”). A true and correct copy of a screenshot of the LinkedIn Profile Page and full printout are attached hereto as Exhibit M. Pearson writes on his LinkedIn page, “I don’t use linked-in very often, so please feel free to email me at: rick.pearson@pearsoninvestment.com.” See Exhibit M. No other contact information is provided.

19. Based on the foregoing, Pearson is seemingly elusive outside of his online presence and his connection to *Seeking Alpha* and *MOXReports*. In fact, in *Cemtrex, Inc. v. Ricardo Antonio Pearson a/k/a Richard Pearson and John Does No. 1-10*, Index No. 2:17-cv-01258-JS-AKT in the United States District Court, Eastern District of New York (the “Cemtrex Case”), the plaintiff therein specifically set forth that it was unable to locate Pearson for service. A true and correct copy of the So Ordered Notice of Voluntary Dismissal Pursuant to F.R.C.P. 41(a)(1)(A)(i) in the Cemtrex Case is attached hereto as Exhibit N.

20. On the facts of this case, it is respectfully submitted that Vuzix should be allowed to serve Pearson pursuant to CPLR § 308(5) at his two known email addresses and at *Seeking Alpha*, where he has been a contributing author since 2009.

21. As set forth in the accompanying Memorandum of Law, due process for service pursuant to CPLR § 308(5) requires that the method of service chosen be reasonably calculated,

under all circumstances, to apprise a defendant of the pending lawsuit. It is respectfully submitted that the methods set forth in this application satisfy that standard.

22. Furthermore, pursuant to CPLR § 2004 and § 306-b, it is respectfully submitted that Vuzix should be granted an extension of time in which to complete service. Vuzix has good cause for seeking this extension, and the interest of justice warrant it, since Plaintiff has been unable to locate Pearson or effect service upon him within the requisite time, notwithstanding the diligent efforts made thus far, including nine separate visits to various addresses where it was believed Defendant may reside based on investigation.

23. No prior application has been made to this or any other Court.

WHEREFORE, for the foregoing reasons and those stated in the accompanying memorandum of law, Plaintiff respectfully requests that this application be granted in its entirety and for such other and further relief in Plaintiff's favor as this court deems just and proper.

Dated: New York, New York
November 30, 2018


IRWIN WELTZ

DOCKET NO. 4

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

Index No.:
Date Purchased: _____

-against-

SUMMONS

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.

-----X
TO THE ABOVE NAMED DEFENDANT:

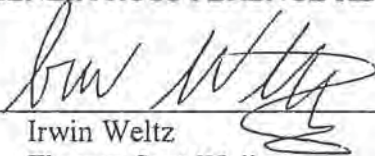
YOU ARE HEREBY SUMMONED to answer the Verified Complaint in this action and to serve a copy of your answer, or, if the Verified Complaint is not served with this Summons, to serve a notice of appearance, upon the Plaintiff’s attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

The basis for venue is that this action is based on the tortious acts and conduct of Defendant that have caused substantial injury to Plaintiff that occurred within this County. In addition, Defendant transmitted his defamatory articles to Seeking Alpha Inc., the owner and operator of the eponymous website, which has its headquarters at 345 Seventh Avenue, New York, New York.

Dated: New York, New York
April 5, 2018

Respectfully submitted,

SICHENZIA ROSS FERENCE KESNER LLP

By: 
Irwin Weltz
Thomas Scot Wolinetz
1185 Avenue of the Americas, 37th Floor
New York, New York 10036
Tel. No. (212) 930-9700

*Attorneys for Plaintiff
Vuzix Corporation*

To: Ricardo Antonio Pearson *a/k/a* Richard Pearson
191 Broadway, Apt 1E
Dobbs Ferry, New York 10522

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

Index No.:

Date Purchased: _____

-against-

VERIFIED COMPLAINT

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.

-----X

Plaintiff Vuzix Corporation ("Vuzix"), by and through its undersigned attorneys, as and for its Verified Complaint against Defendant Ricardo Antonio Pearson a/k/a Richard Pearson ("Pearson"), alleges and states as follows:

NATURE OF THE ACTION

1. Vuzix brings this action to recover substantial damages against Pearson for his false and defamatory statements. Vuzix is a leading supplier of Smart-Glasses and Augmented Reality technologies and products for the consumer and enterprise markets. It is a growing and well-run company with a seasoned management team, notable investors and strategic partners. In fact, Vuzix has received numerous awards and accolades for its products and designs, and holds 66 patents (43 additional patents pending) and numerous IP licenses in the near-eye display field. Notably, in January 2015, Intel Corporation purchased \$24,813,000 of Vuzix's Series A Preferred Stock, and in December 2017 Vuzix entered into a 3-year supply agreement with Toshiba Information Equipment (Hangzhou) Co., Ltd. ("Toshiba") for a Smart Glasses designed and built for them by Vuzix. Vuzix's total revenues have also been growing as Vuzix's overall sales for 2017 exceeded \$5 million, which is a 160% increase over the prior year.

2. Pearson recently published false and defamatory “short and distort” articles about Vuzix via *Moxreports.com* and *Seeking Alpha* (the “Pearson Articles”). Pearson’s scheme is that he takes a short position in shares of public companies and then publishes false and defamatory articles about such public companies to drive the share price down in order to obtain a hefty profit for himself when he covers his short position. This is exactly what Pearson did to Vuzix. In fact, as a direct and proximate consequence of Pearson’s lies, Vuzix’s share price quickly dropped in value from \$7.65 to \$5.15, a decrease of over 30% in per share value.

PARTIES

3. Plaintiff Vuzix Corporation is a Delaware Corporation, with its principal place of business located at 25 Hendrix Road, West Henrietta, New York 14586. Vuzix is publicly traded on NASDAQ under the symbol “VUZI.”

4. Upon information and belief, Defendant Ricardo Antonio Pearson *a/k/a* Richard Pearson is an individual residing at 191 Broadway, Apt 1E, Dobbs Ferry, New York 10522. Pearson used the *Moxreports.com* and *Seeking Alpha* to spread his false and defamatory statements about Vuzix. *Moxreports.com* is a website run by Pearson. *Seeking Alpha* is an internet website focused on the financial markets that publishes content written by its members.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Pearson pursuant to CPLR § 301 because Pearson is a resident of New York.

6. Venue is proper in this Court because this action is based on the tortious acts and conduct of Pearson that have caused substantial injury to Vuzix that occurred within this County. In addition, Pearson transmitted his defamatory articles to Seeking Alpha Inc., the

owner and operator of the eponymous website, which has its headquarters at 345 Seventh Avenue, New York, New York.

BACKGROUND

Vuzix Is An Industry Leader

7. Founded in 1997, Vuzix is engaged in the design, manufacture, marketing and sale of wearable display devices. These devices are worn like eyeglasses and feature built-in video screens that enable the user to view and interact with video and digital content, including movies, video games, computer data and the Internet. Vuzix's wearable display products are known commercially as Smart and Augmented Reality Glasses, Video iWear (Eyewear) and head mounted displays (or HMDs). These products are capable of providing virtual, large high-resolution screens and yet they can fit in a user's pocket or purse and can be viewed practically anywhere and at anytime.

8. Vuzix's devices can also be used for Augmented Reality applications in which the user has their real world view augmented with computer generated information. Vuzix's products are designed to work with mobile electronic devices, including cell phones, laptop computers, tablets, portable media players and gaming systems.

9. Vuzix produces and sells two main types of wearable display products: Smart Glasses for a variety of enterprise and commercial users and applications, including Augmented Reality, and Video Viewing glasses for on-the-go users as mobile displays for entertainment and gaming. Vuzix's products are available with varying features, including with and without application running computer processors, and are offered as either monocular or binocular display systems. With its origins in defense research and development for next-generation

military display solutions, Vuzix is now focused on pursuing the enterprise and consumer markets for wearable computing and personal Augmented Reality display devices.

10. Since 2005, Vuzix has won numerous Consumer Electronics Show (“CES”) awards for innovation, as well as several wireless technology innovation awards, amongst others.

11. As a respected industry pioneer and leader, Vuzix maintains a strong intellectual property portfolio consisting of 66 patents issued and an additional 43 pending. Some of its competitive technology differentiators include Passive and Dynamic Holographic waveguide optics for existing micro displays, user interface gesture control and ambient light transmission control, LED micro scanning display engine, large field of view HD optics, and full color waveguide optics with active development plans for curved see-through optical imaging waveguides.

12. The most recent product introduced by Vuzix is the Vuzix Blade™ (the “Blade”). The Blade is the first Augmented Reality Smart Glasses featuring Vuzix’s advanced waveguide optics for hands-free mobile computing connectivity and location aware Augmented Reality content. The Blade provides the user with the wide range of features and capabilities in a natural glasses form factor, and such features range from basic text messaging and answering the phone to overlaying mapping directions, menus, weather, events, stocks, video conferencing, sports updates, social feeds, bio-metrics and more, right in front of the user.

13. The Blade allows the user to intuitively navigate via simple swipes and taps on its eyeglass temple frame, or leverage voice controls and external AI systems. This allows users to leave their phones in their pockets for most functions and adds the ability to connect the information being presented to the real world, including that from cloud based AI solutions like Amazon Alexa. The Blade will help track a user’s health levels for fitness activities to getting

the *Yelp* score for the user's next dinner and with its built in camera will easily allow social media sharing by simply recording the events at hand. The Blade also delivers a "hands free" connection of the digital world to the real world, providing unprecedented access to location-aware connected information. The Blade's private, see through, full color, bright, high resolution display screen performs both indoors and outdoors.

14. Vuzix is managed by a seasoned team of experienced and dedicated professionals, including:

- a. **Paul J. Travers**—Paul J. Travers is a founder, the Chief Executive Officer, President and a Director of Vuzix. Mr. Travers has served as Vuzix's President and Chief Executive Officer since 1997 and as a member of the board of directors since November 1997. Prior to the formation of Vuzix, Mr. Travers founded both e-Tek Labs, Inc. and Forte Technologies Inc. He has been a driving force behind the development of Vuzix's products for the consumer market. With more than 30 years of experience in the consumer electronics field, and 15 years of experience in the virtual reality and virtual display fields, he is a nationally recognized industry expert. He holds an Associate degree in engineering science from Canton, ATC and a Bachelor of Science degree in electrical and computer engineering from Clarkson University.
- b. **Grant Russell**—Grant Russell is the Chief Financial Officer, Executive Vice-President, Treasurer and a Director of Vuzix. Mr. Russell has served as Vuzix's Chief Financial Officer since 2000 and as a member of the board of directors since April 2009. From 1997 to 2004, Mr. Russell developed and subsequently sold a successful software firm and a new concept computer store and cyber café. In 1984, he co-founded Advanced Gravis Computer ("Gravis"), which, under his leadership as President, grew to become the world's largest PC and Macintosh joystick manufacturer with sales of \$44,000,000 worldwide and 220 employees. Gravis was listed on NASDAQ and the Toronto Stock Exchange. In September 1996, Gravis was acquired by a US-based Fortune 100 company in a successful public tender offer. Mr. Russell holds a Bachelor of Commerce degree in Finance from the University of British Columbia and is both a US Certified Public Accountant and a Canadian Chartered Accountant.
- c. **Paul Boris**—Paul Boris is the Chief Operating Officer and a Director of Vuzix. Mr. Boris joined Vuzix after spending two plus years at General Electric ("GE") in a variety of executive leadership roles including CIO of Advanced Manufacturing Strategy, Site Leader of the Advanced Manufacturing and Software Technology Center and most recently as the Vice President of

Manufacturing Industries of GE Digital. As CIO of Advanced Manufacturing Strategy for GE, he focused on driving GE's innovative factory strategy to increase productivity and deliver the optimization of assets and operations. In his most recent role, Mr. Boris focused on defining and enabling GE's commercial strategy for Brilliant Manufacturing by working with companies to accelerate their own digital transformation. Prior to working at GE, Mr. Boris spent over eight years in a variety of executive roles overseeing manufacturing and operations strategy at SAP. Mr. Boris was the dynamic force behind the Perfect Plant initiatives at SAP where he was Global Vice President, Enterprise Operations Management. He served as director at the National Association of Manufacturers, the US's largest industrial trade association for just under five years to 2014. Mr. Boris' breadth of manufacturing operations and technology-related capabilities and experiences enable him to bring significant value to Vuzix.

15. Vuzix has attracted the attention of significant investors and strategic partners. On January 2, 2015, Intel Corporation purchased \$24,813,000 of Series A Preferred Stock. Each share of Series A Preferred Stock is convertible into 100 shares of common stock and votes on an as-converted basis with the common stock. If converted, this represents a 15% ownership stake based upon the current number of outstanding common shares.

16. On December 6, 2017, Vuzix entered into a supply agreement (the "Master Supply Agreement" or "MSA") with Toshiba. The MSA sets forth the general terms and conditions, including with respect to product quality, product changes, minimum order quantities and deliveries and pricing pursuant to which Vuzix will sell to Toshiba and its affiliates the Smart Glasses product that was developed pursuant to a development agreement between Vuzix and a Toshiba affiliate. Any such sales will be made pursuant to purchase orders which Toshiba may submit to Vuzix in its discretion.

17. Pursuant to the MSA, Vuzix agreed to sell such product exclusively to Toshiba for a period of up to 12 months, subject to Toshiba's submitting a minimum of \$5,000,000 of purchase orders. The product is being co-branded and labelled as a Toshiba product, "Powered

by Vuzix” and is expected to be sold on a global basis by Toshiba Client Solutions group, which will bundle the Smart Glasses unit with a specially designed mobile edge computing system that Toshiba principally developed for this program. The MSA has a three year term, subject to earlier termination under certain conditions. Vuzix recently received its first purchase order from Toshiba totaling \$1,068,000.

18. Vuzix continues to grow its business and operations. In fact, overall revenues for 2017 exceeded \$5 million, which is a 160% increase over the prior year, and Vuzix now has 63 full-time employees with offices in New York, the United Kingdom, Spain and Japan.

Pearson’s Short And Distort Scheme Directed At Vuzix

19. This action arises from a classic “short and distort” scheme. In such a scheme, short-sellers borrow securities, sell them and then drive the price of their target company’s stock down by spreading materially false, misleading, defamatory and disparaging information about the company. Once the company’s stock drops to an artificially low price, ideally zero, the short-sellers repurchase and return the borrowed securities, pocketing the difference. This is precisely what Pearson has done and continues to do against Vuzix.

20. On March 16, 2018, Pearson published a short and distort “report” on *Moxreports.com* and on March 20, 2018 Pearson published another hit piece entitled “*Vuzix: Far Worse Than Anyone Had Imagined*” on *Seeking Alpha*. *Seeking Alpha* requires no educational, professional or journalistic credentials to publish on its website. *Seeking Alpha* does not check into the factual authenticity of the posted content or validate that the author’s opinions are worthy of merit. Indeed, *Seeking Alpha* disclaims any responsibility for the content of what appears on its website.

21. The Pearson Articles were distributed globally on the Internet. Upon information and belief, the Pearson Articles have been disseminated or linked to other websites, as well.

22. The Pearson Articles are riddled with false, misleading and defamatory statements about Vuzix. Pearson was motivated by a malicious desire to destroy Vuzix's business and depress its share price so that Pearson could profit from short selling his shares of Vuzix's stock. Not surprisingly, Pearson specifically states in the Pearson Articles that "[t]he author is short VUZI."

The False And Defamatory Statements

23. The statements, implications and meanings set forth in the Pearson Articles that are identified below are among the many false and libelous statements in the Pearson Articles. Pearson knew and intended that the statements set forth in the Pearson Articles, including those identified below, would convey false and defamatory implications and meanings concerning Vuzix to any person reading it or being informed of its contents, as to cause panic and uncertainty regarding investment in Vuzix, including and especially in the eyes of Vuzix shareholders.

24. The statements, implications and meanings set forth in the Pearson Articles, including those identified below, were published by Pearson with malicious motives, as part of Pearson's desire to damage Vuzix and decrease its share price for his own personal gain and to the detriment of Vuzix's shareholders.

25. At the time of the publication of the Pearson Articles, Pearson acted with actual malice in that Pearson knew that the defamatory statements, implications and meanings, including those identified below, were false, and nonetheless published them in reckless

disregard of their falsity, or alternatively, published them without reasonable grounds for believing that the statements, implications and meanings were true.

**False And Defamatory Statements, Implications And Meanings
Regarding Vuzix's General Business and Operations**

26. Pearson falsely states in the *Seeking Alpha* article that: "Vuzix is a stock promotion which shows blatant signs of fraud. The setup here is nearly identical to the dozens of other stock frauds or promotions I have exposed here at Seeking Alpha over the past few years." This statement is both false and defamatory.

27. Vuzix is not a fraud. It has been in business for over 20 years and is a vibrant, growing and well-managed company with award winning products and technologies.

28. These statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix, at its core, is a fraud. These statements, implications and meanings are false and defamatory.

**False And Defamatory Statements, Implications And Meanings
Regarding Vuzix Going Public**

29. Pearson falsely states in the *Seeking Alpha* article that: "Vuzix Corp. is a reverse merger stock promotion which shows blatant signs of fraud." This statement is both false and defamatory.

30. In fact, Vuzix became a public entity by its initial public offering - and not a reverse merger - on December 24, 2009 with its filing and acceptance of its S-1 Registration statement by the United States Securities and Exchange Commission (the "SEC"). Vuzix initially commenced trading on the TSXV in Canada thereafter and became listed on the OTC markets in 2010 before subsequently up-listing to the NASDAQ on January 28, 2015.

31. Soon after the publication of the *Seeking Alpha* article, *Seeking Alpha* acknowledged the falsity of this statement by virtue of the addition of an "Editor's Note" stating that "This article previously called Vuzix a reverse merger company. We have removed that description from the article."

32. This statement was intended by Pearson to be understood by members of the public who read or were informed of it to have false and defamatory implications and meanings, including that Vuzix, at its core, is a fraud. This statement, implication and meaning is false and defamatory.

**False And Defamatory Statements, Implications And Meanings
Regarding Vuzix's Revenues**

33. Pearson states in the Pearson Articles that Vuzix has "Revenues: \$0.5 million per quarter (negative gross margins)." This statement is both false and defamatory.

34. In fact, Vuzix's revenues by quarter in 2017 were approximately \$1.2 million (Q1), \$1.3 million (Q2), \$1.4 million (Q3) and \$1.6 million (Q4). Further, as shown, overall revenues for 2017 exceeded \$5 million, which is a 160% increase over the prior year.

35. This statement was intended by Pearson to be understood by members of the public who read or were informed of it to have false and defamatory implications and meanings, including that Vuzix is a fraud with minimal revenue and not worthy of investment. This statement, implication and meaning is false and defamatory.

**False And Defamatory Statements, Implications and Meanings
Regarding Vuzix's Agreement With Toshiba**

36. Pearson falsely claims in the Pearson Articles that Vuzix is paying Toshiba \$5 million as part of the MSA with Toshiba. He states in the *Seeking Alpha* article that: "Meanwhile, Vuzix has made it a point to aggressively tout a \$5 million 'purchase agreement'

with Toshiba. In fact, this agreement is really just manufacturing agreement whereby Vuzix is the one paying \$5 million to Toshiba. The wording states clearly that Toshiba will ‘fulfill the initial purchase order received by Toshiba’.” These statements, implications and meanings are false and defamatory.

37. In fact, Vuzix is not paying \$5 million to Toshiba. Vuzix has a business relationship with Toshiba that includes the MSA requiring Toshiba to place a \$5 million minimum of orders over the first 12 months of the MSA in order to maintain exclusivity for a custom pair of Smart Glasses that was developed and manufactured by Vuzix, and is being delivered to Toshiba by Vuzix. These amounts will be in addition to the approximately \$1.1 million Vuzix received from Toshiba Japan for the development of custom co-branded product, originally announced by Vuzix in February 2017. The engineering and development work has been completed and the product has moved into mass production at the request of Toshiba.

38. As alluded to above, Vuzix received the first purchase order from Toshiba under the MSA on March 12, 2018 and filed a Form 8-K with financial details on the initial purchase order received from Toshiba, totaling approximately \$1.1 million, on March 13, 2018.

39. These statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix does not have any legitimate agreement with Toshiba. These statements, implications and meanings are false and defamatory.

**False And Defamatory Statements, Implications And Meanings
Regarding The Blade**

40. Pearson falsely claims in the *Seeking Alpha* article that: “The Blade appears to be a sham. NONE of the journalists could get the critical Alexa feature to function, yet precisely

ALL of them aggressively touted ‘Alexa’ in reviews. The second video appears to be taken in someone’s apartment, not at CES at all.” These statements, implications and meanings are false and defamatory.

41. In fact, the Blade works as reported. A *Tom’s Guide* Senior Editor interviewed Vuzix representatives at CES and recorded a video while operating Alexa voice assistant on the Blade from CES on the public tradeshow floor at Vuzix’s exhibit booth. The video interview and Alexa demonstration on the Blade was recorded and uploaded to the *Tom’s Guide YouTube* page on January 12, 2018. Vuzix also posted a 2.5-minute-long video demonstrating Alexa running on the Blade from CES on January 12, 2018, and on Vuzix’s *YouTube* page on January 12, 2018. Vuzix later received email verification from *Tom’s Guide* that the interview, video and recording were indeed recorded at CES 2018.

42. Additionally, Pearson falsely claims in *Moxreports.com* that: “Vuzix’s ‘Blade’ is a little more than a low tech mock-up which serves as a prop for journalists to conduct sham reviews. When these journalists ‘reviewed’ the product at CES, neither the Alexa feature nor the browser were functioning – not for any of the journalists. Yet these same journalists then widely touted the device in their mainstream bylines, overwhelmingly on the basis of the Alexa features that actually don’t exist!” These statements are false and defamatory.

43. In fact, the Blade supports Amazon Alexa. The full commercial release of the Blade will also ship with support for the Alexa voice assistant. There are multiple visual and actual examples of Alexa running on the Blade at CES 2018 and at the Mobile World Congress (“MWC”). Further, the Blade will commence volume production in the second quarter of 2018 at Vuzix’s upstate New York plant.

44. Vuzix has developed its own intellectual property portfolio, with over 20 years of manufacturing know-how, and proprietary processes, materials and equipment to create high performance waveguides and near-eye display products. Vuzix's technology, intellectual property portfolio and position in the marketplace gives Vuzix a leadership position in Augmented Reality and Smart Glasses products, waveguide optics and display engine technology.

45. The Blade is the third product introduced by Vuzix that utilizes its waveguide optics and display engine technology, and is certainly not a "low tech mock-up." The first generation products were sold to the U.S. military and industrial customers as the M2000AR. Vuzix demonstrated the Blade, operating a series of demonstration apps, to an estimated 4,000 industry professionals, including independent members of the media at CES and MWC in January and February 2018, and received overwhelmingly positive feedback.

46. Pearson's statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix does not have any legitimate products, that Vuzix has been lying to the public about the Blade and that the Blade is a scam. These statements, implications and meanings are false and defamatory.

**False And Defamatory Statements, Implications and Meanings
Regarding Vuzix's Public Relation Activities**

47. Pearson falsely claims in the Pearson Articles that Vuzix has paid journalists or other media to give positive reviews about the Blade. These statements, implications and meanings are false and defamatory. In fact, Vuzix has never paid anyone to give its products a positive review.

48. Pearson falsely claims in *Moxreports.com* that: "Showstoppers.com creates a private closed door events which look (in the photos) like real public conferences. Showstoppers then hand selects all the journalists and submits to Vuzix weeks before any event. There is zero possibility of anyone saying anything negative or questioning the obvious problems." These statements, implications and meanings are false and defamatory.

49. Vuzix has no idea which journalists, if any, will visit its booth at Showstoppers media events. In fact, Vuzix did not attend the Showstoppers event at CES 2018 at all, but rather attended a similar event called Pepcom 2018. The Pepcom 2018 CES event took place the night before the claimed Showstoppers event. There is no preview of attending journalists issued by the organizers of any of these industry tradeshow events, nor is there any one-on-one appointment system where attendees can connect or book appointments with exhibiting firms. Vuzix was just one of hundreds of exhibitors showing its new products and technologies to industry journalists. The Pepcom event is very similar to Showstoppers and is one of the three trade events of this nature each year at CES that takes place during the week of the CES conference and each event independently invites as many as 1,500 journalists, analysts and key industry influencers, or more, to visit with hundreds of leading consumer electronics companies. Vuzix was not in any way, shape or form involved in filtering this group of attendees.

50. Vuzix welcomed all journalists that stopped by and wanted a demo of the Blade or Vuzix M300 Smart Glasses at Pepcom (not Showstoppers) at CES 2018, as well as MWC where it also attended both Pepcom and Showstoppers in Barcelona, Spain in February 2018. Vuzix does not pre-screen or screen journalists before they visit its booth at such media events. By way of example, one journalist spent over an hour at Vuzix's booth hands-on testing and reviewing the Blade at Pepcom at CES 2018. The opinions of the media surrounding Vuzix at

CES 2018 and MWC were based solely on the media's independent evaluation and opinions. Vuzix neither encouraged nor paid for any journalists to attend Pepcom or Showstoppers events or its booths at either CES or MWC, or to write reviews of any of Vuzix's products.

51. Pearson further falsely claims in the *Moxreports.com* that Vuzix through IRTH Communications ("IRTH") sponsored more than 30 articles from mainstream media outlets and that "Photos of leaked documents from IRTH Communications show IRTH bragging to potential clients that it was responsible for more than 30 articles from mainstream media outlets which all simultaneously erupted in connection with Margolis' 'Alexa ruse'. These specific IRTH sponsored articles were conspicuous in that they offered effusive praise for Vuzix but appeared as standard news on dozens of mainstream sites." These statements, implications and meanings are false and defamatory.

52. In fact, Vuzix utilizes both internal and external communications firms, including, but not limited to, IRTH. The mainstream media outlets that covered the Blade were gained via normal media outreach (non-paid) which resulted in earned media coverage based on the product and the technology. The opinions of the media surrounding Vuzix at CES 2018 and MWC were based solely on the media's independent evaluation and opinions with zero input, influence, or payment from Vuzix or any of its external communications firms.

53. These statements were intended by Pearson to be understood by members of the public who read or were informed of them to have false and defamatory implications and meanings, including that Vuzix does not have any legitimate products, that Vuzix has been paying for positive reviews (and press), and that anything positive said about Vuzix or its products was paid for by Vuzix. These statements, implications and meanings are false and defamatory.

Vuzix Has Been Damaged by Pearson's Malicious Defamation

54. As a direct and proximate result of Pearson's unlawful online smear campaign to sabotage Vuzix's business and crash its stock price while keeping a profit from his short position, Vuzix has suffered reputational harm and economic damages. In the immediate aftermath of the publication of the false statements and libel in the Pearson Articles, the price of Vuzix's share's plummeted from \$7.65 to \$5.15, a loss of more than \$80 million in equity market value.

55. Further, it is possible several putative shareholder class action lawsuits will be filed against Vuzix, which will incorporate the false and defamatory statements in the Pearson Articles. Vuzix is likely to incur substantial costs in dealing with these meritless suits, which were a likely foreseeable by-product of the Pearson Articles.

AS AND FOR A FIRST CAUSE OF ACTION
(Libel)

56. Vuzix repeats and realleges the foregoing paragraphs as if fully set forth herein.

57. Pearson wrongfully and maliciously intended to injure and defame Vuzix.

58. The foregoing statements, implications and meanings were compiled and published by Pearson without privilege or authorization in a manner that was false, misleading and libelous, and moreover were published with actual malice and malicious intent, or with reckless disregard of their truth or falsity, to harm Vuzix's business and reputation, to cause panic and fear among Vuzix shareholders, and to cause its share price to decline so that Pearson could reap huge short-term gains from transacting in Vuzix's securities.

59. By virtue of Pearson's false and defamatory statements Pearson damaged Vuzix's business and reputation, caused panic and fear among Vuzix shareholders,

encouraged other short sellers to join and rebroadcast his lies and short the stock, and caused Vuzix's share price to decline so that Pearson could reap huge short-term gains from transacting in Vuzix's securities.

60. Further, it is possible several putative shareholder class action lawsuits will be filed against Vuzix, which will incorporate the false and defamatory statements in the Pearson Articles. Vuzix is likely to incur substantial costs in dealing with these meritless suits, which were a likely foreseeable by-product of the Pearson Articles.

61. As a direct and proximate result of the foregoing conduct, Vuzix has suffered general and special damages.

62. As a result, Vuzix is entitled to monetary and punitive damages.

AS AND FOR A SECOND CAUSE OF ACTION
(Libel Per Se)

63. Vuzix repeats and realleges the foregoing paragraphs as if fully set forth herein.

64. Pearson knowingly published false and derogatory statements about Vuzix's business and securities; and moreover, such statements were calculated to damage Vuzix's business and reputation.

65. As a proximate result of Pearson's unlawful conduct, Vuzix is entitled to monetary and punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant, as follows:

- (a) A judgment for damages against Defendant in an amount to be demonstrated at trial, but in no circumstances less than the sum of \$80,000,000.00 (Eighty Million Dollars);
- (b) Punitive damages in an amount to be

demonstrated at trial;

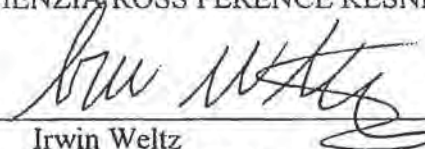
- (c) The costs, fees and disbursements of this action; and
- (d) For any such other relief in Plaintiff's favor that the Court may deem just, proper and equitable.

Dated: New York, New York
April 5, 2018

Respectfully submitted,

SICHENZIA ROSS FERENCE KESNER LLP.

By: _____


Irwin Weltz
Thomas Scot Wolinetz
1185 Avenue of the Americas, 37th Floor
New York, New York 10036
Tel. No. (212) 930-9700


*Attorneys for Plaintiff
Vuzix Corporation*

VERIFICATION

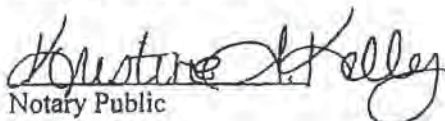
STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Paul J. Travers, under penalties of perjury, deposes and says:

I am the Chief Executive Officer of Vuzix Corporation, which is the Plaintiff in this action. I have read the annexed Verified Complaint, know the contents thereof, and state that same are true to my knowledge, except those matters therein stated to be alleged on information and belief, and, as to those matters, I believe them to be true.


Paul J. Travers

Sworn to before me
this 5th of April 2018


Notary Public

KRISTINE A KELLY
Lic. #01KE6296545
Notary Public-State of New York
Qualified in Monroe County
COMM. EXP. 2/3/22

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----x
VUZIX CORPORATION

Plaintiff/Petitioner,

-against-

Index No. 153125/2018

RICARDO ANTONIO PEARSON a/k/a RICHARD
PEARSON

Defendant/Respondent.
-----x

**NOTICE OF COMMENCEMENT OF ACTION SUBJECT
TO MANDATORY ELECTRONIC FILING**

PLEASE TAKE NOTICE that the matter captioned above has been commenced as an electronically filed case in the New York State Courts Electronic Filing System ("NYSCEF") as required by CPLR § 2111 and Uniform Rule § 202.5-bb (mandatory electronic filing). This notice is being served as required by that rule.

NYSCEF is designed for the electronic filing of documents with the County Clerk and the court and for the electronic service of those documents, court documents, and court notices upon counsel and unrepresented litigants who have consented to electronic filing.

Electronic filing offers significant benefits for attorneys and litigants, permitting papers to be filed with the County Clerk and the court and served on other parties simply, conveniently, and quickly. NYSCEF case documents are filed with the County Clerk and the court by filing on the NYSCEF Website, which can be done at any time of the day or night on any day of the week. The documents are served automatically on all consenting e-filers as soon as the document is uploaded to the website, which sends out an immediate email notification of the filing.

The NYSCEF System charges no fees for filing, serving, or viewing the electronic case record, nor does it charge any fees to print any filed documents. Normal filing fees must be paid, but this can be done on-line.

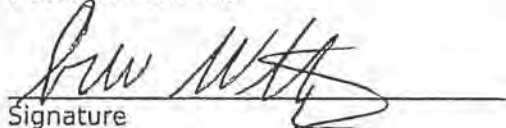
Parties represented by an attorney: An attorney representing a party who is served with this notice must either: 1) immediately record his or her representation within the e-filed matter on the NYSCEF site; or 2) file the Notice of Opt-Out form with the clerk of the court where this action is pending. Exemptions from mandatory e-filing are limited to attorneys who certify in good faith that they lack the computer hardware and/or scanner and/or internet connection or that they lack (along with all employees subject to their direction) the operational knowledge to comply with e-filing requirements. [Section 202.5-bb(e)]

Parties not represented by an attorney: Unrepresented litigants are exempt from e-filing. They can serve and file documents in paper form and must be served with documents in paper form. However, an unrepresented litigant may participate in e-filing.

For information on how to participate in e-filing, unrepresented litigants should contact the appropriate clerk in the court where the action was filed or visit www.nycourts.gov/efileunrepresented. Unrepresented litigants also are encouraged to visit www.nycourthelp.gov or contact the Help Center in the court where the action was filed. An unrepresented litigant who consents to e-filing may cease participation at any time. However, the other parties may continue to e-file their court documents in the case.

For additional information about electronic filing and to create a NYSCEF account, visit the NYSCEF website at www.nycourts.gov/efile or contact the NYSCEF Resource Center (phone: 646-386-3033; e-mail: efile@nycourts.gov).

Dated: 04/05/2018


Signature

IRWIN WELTZ

Name

Sichenzia Ross Ference Kesner LLP

Firm Name

1185 Avenue of the Americas, 37th Floor

Address

New York, New York 10036

City, State, and Zip

(212) 930-9700

Phone

iweltz@srfklp.com

E-Mail

To: Ricardo Antonio Pearson a/k/a Richard Pearson

191 Broadway, Apt 1E

Dobbs Ferry, New York 10522

9/3/15

DOCKET NO. 5

Exhibit B

REDACTED

FILTERS

Ricardo A Pearson

Age 50 (born [REDACTED])

Click any section of this summary to view full results or see a preview of the available information.

Contact Information

Addresses [5 found](#)

191 Broadway APT 1E
Dobbs Ferry, NY 10522-2825
Confirmed

Phone Numbers [4 found](#)

(914) 693-2823
(914) 564-9878
Confirmed

Email Addresses

No email addresses available

Social Networks

No social network information available

Family & Work

Relatives [11 found](#)

Simone P Pearson
Eulton I Pearson

Marriage & Divorce

No marriage & divorce records available

Education

No education history available

Employment

No employment history available

Court Records

Criminal Records [learn more](#)

Search available records nationwide

Federal Criminal Records [learn more](#)

Search available records

Civil Court Records [learn more](#)

Search available records nationwide

Explore Ricardo's Connections

Visually explore Ricardo's connections. Use Full Screen view for better experience

Get Profile



Address & Phone History

5 found

According to our best available information, this is the address & phone history for the person you selected.

Click an address to zoom the map

(914) 693-2823 is confirmed connected. This address is confirmed.

1 191 Broadway APT 1E (914) 693-2823Landline(914) 564-9878Cellular(914) 693-1309Landline
Dobbs Ferry, NY 10522-2825

2 3024 Kingsbridge AVE #4A(914) 693-2823Landline(718) 796-4937Landline
Bronx, NY 10463-5121

This address is confirmed.

3 14 Wainwright AVE APT 2B
Yonkers, NY 10710

4 28 Whitman ST
Hastings On Hudson, NY 10706-1606
[view property details](#)

5 1052 Fontana DR
Alameda, CA 94502-6820
[view property details](#)

Relatives of Ricardo Pearson

11 found

According to our best available information, these are current relatives, former relations, or cohabitants of the person you selected.

Simone Pearson Phone: (718) 79*-**** 5 found
Age 48 Aliases: None found
Yonkers, NY 6 foundRelatives: John Singh 7 found

Euton Pearson Phone: (914) 77*-**** 1 found
Age 75 Aliases: None found
Yonkers, NY 8 foundRelatives: Lydia Ramdin 8 found

Lydia Ramdin Phone: (914) 77*-**** 1 found

Age 57 Aliases: Lydia R Pearson 1 found
Yonkers, NY 6 foundRelatives: Euton Pearson 7 found

Diana Pearson Phone: None found
Age unavailable Aliases: None found
Yonkers, NY 1 foundRelatives: Simone Pearson 6 found

Kennis Pearson Phone: (914) 69*-**** 7 found
Age 46 Aliases: None found
Yonkers, NY 10 foundRelatives: Parke Pearson 10 found

Allison Pearson Phone: (914) 69*-**** 5 found
Age 54 Aliases: Ali Pearson 2 found
Dobbs Ferry, NY 8 foundRelatives: Simone Pearson 13 found

Tracy Burke Phone: (914) 47*-**** 5 found
Age 51 Aliases: None found
Dobbs Ferry, NY 5 foundRelatives: Richard Burke 7 found

Richard Burke Phone: (914) 47*-**** 6 found
Age 84 Aliases: None found
Dobbs Ferry, NY 6 foundRelatives: Allison Pearson 9 found

Dwight Burke Phone: (914) 47*-**** 4 found
Age 53 Aliases: None found
Dobbs Ferry, NY 3 foundRelatives: Richard Burke 7 found

Helen Shearouse Phone: (914) 47*-**** 3 found
Age 54 Aliases: None found
Ridgewood, NJ 2 foundRelatives: Christine Shearouse 8 found

Parke Pearson Phone: (914) 69*-**** 2 found
Age 54 Aliases: None found
Dobbs Ferry, NY 2 foundRelatives: Kennis Pearson 9 found

Add Nationwide Civil Court Records Check

\$19.95

Search instantly!

We'll check available county courts for civil records that could belong to Ricardo Pearson such as bankruptcies, liens, and judgments. Results can include, when available: case number, defendant name and address, court name, case details, and more. Want to know? Add this section.

DOCKET NO. 6

Exhibit C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
VUZIX CORPORATION,

Plaintiff(s),

Index No. 153125/2018

-against-

AFFIDAVIT OF ATTEMPTED SERVICE

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant(s).

-----X
STATE OF NEW YORK)
S.S.
COUNTY OF NEW YORK)

DOMINIC DELLAPORTE, being duly sworn, deposes and says that he is over the age of eighteen years, is employed by the attorney service, METRO ATTORNEY SERVICE INC., and is not a party to this action.

That on the 1st day of May, 2018, at approximately the time of 7:49 PM, deponent attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but was told by an adult male that only Alison Pearson resided therein and that the defendant was unknown at that address. The adult male that answered the door was later confirmed to be the defendant when the plaintiff supplied a photograph of the defendant to the deponent.

That on the 23rd day of June, 2018, at approximately the time of 7:53 AM, deponent again attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but received no response to repeated knocks on the apartment door.


DOMINIC DELLAPORTE #1320496
Sworn to before me this
3rd day of July, 2018


NOTARY PUBLIC

EVAN COHAN
NOTARY PUBLIC & ATTORNEY AT LAW
NO. 02CO498577
QUALIFIED IN ROCKLAND COUNTY
CERTIFICATE FILED IN NEW YORK COUNTY
COMMISSION EXPIRES JUNE 29, 2022

DOCKET NO. 7

Exhibit D

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
VUZIX CORPORATION,

Plaintiff(s),

Index No. 153125/2018

-against-

AFFIDAVIT OF SERVICE

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant(s).

-----X
STATE OF NEW YORK)
S.S.
COUNTY OF NEW YORK)

RICARDO DELPRATT, being duly sworn, deposes and says that he is over the age of eighteen years, is employed by the attorney service, METRO ATTORNEY SERVICE INC., and is not a party to this action.

That on the 8th day of June, 2018, at approximately the time of 1:55 PM, deponent attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but no response to repeated knocks on the apartment door.

That on the 12th day of June, 2018, at approximately the time of 5:59 PM, deponent again attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but received no response to repeated knocks on the apartment door.

That on the 18th day of June, 2018, at approximately the time of 1:26 PM, deponent again attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but received no response to repeated knocks on the apartment door.

That on the 26th day of June, 2018, at approximately the time of 8:28 PM, deponent again attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but received no response to repeated knocks on the apartment door.

That on the 27th day of June, 2018, at approximately the time of 10:52 AM, deponent again attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but received no response to repeated knocks on the apartment door. At that time, therefore, deponent served a true copy of the foregoing papers upon Ricardo Antonio Pearson a/k/a Richard Pearson by firmly affixing the same conspicuously on the front door at that address, the actual place of residence.

That on the 27th day of June, 2018, deponent served another copy of the foregoing upon Ricardo Antonio Pearson a/k/a Richard Pearson by first class mail, by enclosing a true copy thereof in a securely sealed and postpaid wrapper with the words "PERSONAL AND CONFIDENTIAL" written on the same envelope, and not indicating on the outside that it is from an attorney, and depositing the same into an official depository maintained by the Government of the United States, City and State of New York, addressed as follows:

Ricardo Antonio Pearson a/k/a Richard Pearson
191 Broadway, Apt. 1E
Dobbs Ferry, New York 10522


RICARDO DELPRATT #2067114

Sworn to before me this
27th day of June, 2018


NOTARY PUBLIC

EVAN COHAN
NOTARY PUBLIC & ATTORNEY AT LAW
NO. 02CO4998577
QUALIFIED IN ROCKLAND COUNTY
CERTIFICATE FILED IN NEW YORK COUNTY
COMMISSION EXPIRES JUNE 29, 2022

DOCKET NO. 8

Exhibit E

FILED: NEW YORK COUNTY CLERK 11/30/2018 05:08 PM

NYSCEF DOC. NO. 8

INDEX NO. 153125/2018

RECEIVED NYSCEF: 11/30/2018

**Richard Pearson**

Follow

I am an activist investor in US and Chinese stocks. I was previously an investment banker in New York Hong Kong and London for 9 years, focused on Equity Capital Markets. I look at both long ideas and short ideas and typically focus on a small number on names where I can spend the time to conduct very deep research. I spend my time living between Los Angeles and Beijing, China.

Contributor since: 2009

MoxReports

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BIDU (1) BIOL (3)
BRS (1) CBAK (2)
CECO (1) CEMP (1)
CETX (1) CIS (1)
CO (1) CYTR (1)
DDS (1) EAC (1)
FARM (1) FNRG (1)
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GCAP (2) GEVA (1)
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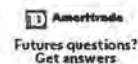
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DOCKET NO. 9

Exhibit F

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
VUZIX CORPORATION,

Plaintiff(s),

Index No. 153125/2018

-against-

AFFIDAVIT OF ATTEMPTED SERVICE

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant(s).

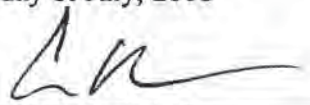
-----X
STATE OF NEW YORK)
S.S.
COUNTY OF NEW YORK)

DOMINIC DELLAPORTE, being duly sworn, deposes and says that he is over the age of eighteen years, is employed by the attorney service, METRO ATTORNEY SERVICE INC., and is not a party to this action.

That on the 5th day of July, 2018, at approximately the time of 7:21 AM, deponent attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 14 Wainwright Avenue, Apt. 2B, Yonkers, New York, but was told by the step mother of Richard Pearson that he lives with Burke Pearson in Dobbs Ferry.

That on the 5th day of July, 2018, at approximately the time of 8:03 AM, deponent attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1C, Dobbs Ferry, New York, but was told by Burke Pearson that her husband Richard Pearson is not the same Richard Pearson named in this action.

That on the 5th day of July, 2018, at approximately the time of 8:09 AM, deponent attempted to serve a true copy of the Summons, Verified Complaint and Notice of Commencement of Action Subject to Mandatory Electronic Filing upon Ricardo Antonio Pearson a/k/a Richard Pearson at 191 Broadway, Apt. 1E, Dobbs Ferry, New York, but was told by Alison Pearson that she resides with her boyfriend Mike Morano and that the defendant is not known to her.


DOMINIC DELLAPORTE #1320496Sworn to before me this
9th day of July, 2018
NOTARY PUBLIC

EVAN COHAN
NOTARY PUBLIC & ATTORNEY AT LAW
NO. 02CO4998577
QUALIFIED IN ROCKLAND COUNTY
CERTIFICATE FILED IN NEW YORK COUNTY
COMMISSION EXPIRES JUNE 29, 2022

DOCKET NO. 10

Exhibit G

REDACTED

7/2/201

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Find Anyone

First Name

(optional)

Last Name

City, State

(optional)

Search Now

Profile for Tracy A Burke

My List

Tracy A Burke

Age: 51 (Born [REDACTED])

None

Add Notes...

Contact Information

Phone

(914) 693-1309 current
(914) 478-4694
(914) 478-3459
(914) 693-2623
(914) 231-5272

Interactive Relationship Map

Addresses Show All Addresses



Property Details

No property record found.

Local Census Data

Total households 3,822
Families 70%
Male / Female 47% / 53%

Income

Avg. Household \$133,103
Less \$10K 4%
\$10k to \$14,999 1%
\$15k to \$24,999 6%
\$25k to \$34,999 5%
\$35k to \$49,999 8%
\$50k to \$74,999 10%
\$75k to \$99,999 14%
\$100k to \$149,999 18%
\$150k to \$199,999 13%
\$200k or more 19%

Education

High School Degree 20%
College Degree 26%
Graduate Degree 29%

Relatives

Richard Burke
Susan Burke
Ricardo Pearson
Dwight Burke
Parke Pearson
Helen Shearouse
Allison Pearson

Current Phone & Address Check

1 phone number and 1 address current as of 06/28/2018.

Available utility records show service in this person's name.

Run a Criminal Check

Find out more about this person's background. Search criminal records in 43 states that may include when available:

- Felonies, misdemeanors, sex offenses, traffic violations, and other criminal offenses
- Case type, court name, court type, disposition, filing date, and more

Add to Profile

Criminal Check Disclaimer

191 Broadway #APT 1C current
Dobbs Ferry, NY 10522
(914) 478-3459

28 Whitman ST
Hastings On Hudson, NY 10706
(914) 478-4694

83 Bellwood AVE
Dobbs Ferry, NY 10522

422 E Kingsley ST #6
Ann Arbor, MI 48104

28 Whitman RD
Yonkers, NY 10710
(914) 478-4694

7/2/2018

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DOCKET NO. 11

Exhibit H

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through July 24, 2018.

Selected Entity Name: SEEKING ALPHA INC.

Selected Entity Status Information

Current Entity Name: SEEKING ALPHA INC.

DOS ID #: 4150434

Initial DOS Filing Date: OCTOBER 06, 2011

County: NEW YORK

Jurisdiction: DELAWARE

Entity Type: FOREIGN BUSINESS CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

SEEKING ALPHA INC.

52 VANDERBILT AVE, FL 13

NEW YORK, NEW YORK, 10017-3837

Chief Executive Officer

ELI HOFFMANN

52 VANDERBILT AVE, FL 13

NEW YORK, NEW YORK, 10017-3837

Principal Executive Office

SEEKING ALPHA, LTD

47 HA'NISSIM

RA'ANNA, ISRAEL, 43583-71

Registered Agent

NONE

This office does not record information regarding the names and addresses of officers, shareholders or directors of nonprofessional corporations except the chief executive officer, if provided, which would be listed above. Professional corporations must include the name(s) and address(es) of the initial officers, directors, and shareholders in the initial certificate of incorporation, however this information is not recorded and only available by [viewing the certificate](#).

***Stock Information**

# of Shares	Type of Stock	S Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
OCT 06, 2011	Actual	SEEKING ALPHA INC.

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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DOCKET NO. 12

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Updated: August 9, 2017

DOCKET NO. 13

Exhibit J

Latest Article

LONG REV. Revlon's short vs. float setup just became tighter than Tilray(TLRY)

🕒 September 19, 2018 📌 [REV](#)

Shares of Tilray (TLRY) have now spiked up by more than 10x from its recent IPO price. The reason is simply that the short interest became too high relative to the float (likely hitting as as much as 80% or more). As always, the Tilray "infinity squeeze" caught everyone by surprise. It always does.

In this report, I first illustrate the numbers which sparked the Tilray squeeze. I then show how and why infinity squeeze potential appears even more extreme at Revlon (REV) than it did at Tilray. This is specifically due to recent changes in ownership and short interest,

The float has always been very tight at Revlon, with billionaire Ron Perelman already owning over 84% of the company. A standstill agreement which precluded Perelman from taking his stake to over 90% of Revlon just EXPIRED over this past weekend.

In recent weeks, Ron Perelman has continued his purchases of Revlon, acquiring an additional 293,943 shares, above his earlier 84.65% stake paying up to around \$21.00.

The next two largest shareholders (Mittleman Brothers and Alberta Investment) have now acquired a total of 791,931 additional shares, further reducing the float. Mittleman has made clear in public filings that he has no intention of selling for years.

Against that, the short interest in Revlon has gradually increased from 1.8 million shares to 2.7 million shares since April.

As a result, the total shares remaining in the tradable float is now down to 2.68 million shares but short interest is over 2.7 million shares.

Mittleman has stated in SEC filings that the fair value for Revlon could exceed \$50. This is why Perelman is expected to buyout the remainder of Revlon.

For those who haven't noticed, the squeeze has already entered its early stages in recent days.

This report is the opinion of the author. It is not a recommendation for anyone anywhere to do anything at any time. Do your own research, form your own opinions. The author is not an investment advisor. The author may conduct transactions on various securities mentioned in this report (or on securities of competitors of other comparable companies, securities etc.) within the next 72 hours. The author is long REV.

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DOCKET NO. 14

Exhibit K

Biography

Richard Pearson focuses on special situations investing in the US and in China. Mr. Pearson was previously a Director in Equity Capital Markets, Investment Banking for a top tier global investment bank and was based out of New York, Hong Kong and London. During that time he successfully raised over \$30 billion for publicly listed companies in the US, Europe and Asia via equity, convertible bond and derivative transactions. His industry focus was on healthcare / biotech, technology and industrial companies.

Mr. Pearson has had over 100 articles published in various venues, discussing due diligence issues in publicly traded equities.

Mr. Pearson graduated Magna cum Laude with a degree in Finance from the University of Southern California, and also attended Peking University in Beijing. He has formally studied Mandarin for over 8 years and has over 20 years of on the ground experience in China.

He currently divides his time between the US and China depending on the requirements of various due diligence projects.

DOCKET NO. 15

Exhibit L

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DOCKET NO. 16

Exhibit M

FILED: NEW YORK COUNTY CLERK 11/30/2018 05:08 PM

INDEX NO 153125/2018

NYSCEF DOC# 56107-1 https://www.linkedin.com/in/rick-pearson-54004037/

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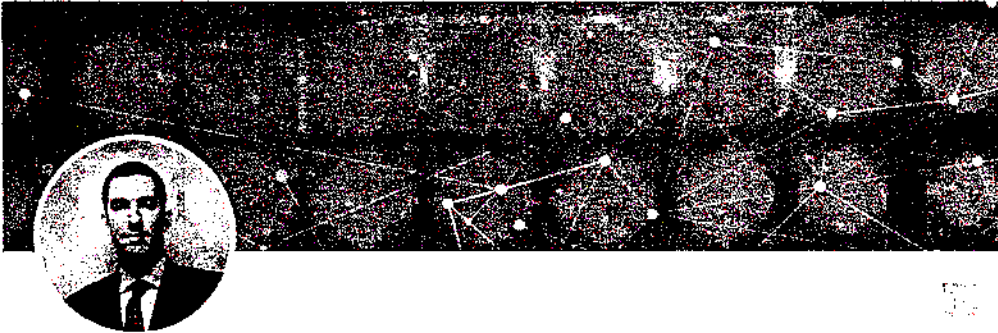
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Rick Pearson • 3rd

Independent Investment Management Professional
Chaoyang District, Beijing, China

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Peking University



See contact info



500+ connections

I don't use linked-in very often, so please feel free to email me at: rick.pearson@pearsoninvestment.com

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Independent Investment Management Professional
Chaoyang District, Beijing, China

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Deutsche Bank



Peking University



See contact info



500+ connections

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attorney in your area.
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Experience



Director

Deutsche Bank

1997 - 2005 • 8 yrs

Convertible bond and derivative structuring and origination. New York, London, Hong Kong.



Analyst - International Private Equity

Trust Company of the West

Sep 1996 - Apr 1997 • 8 mos

Analyst - Private Equity

ASIMCO

Jun 1995 - Sep 1995 • 4 mos

Asimco is based in Beijing, China and manages direct investment in China automotive component manufacturers.

Analyst - Private equity

ASIMCO

Jun 1995 - Aug 1995 • 3 mos

Asimco is based in Beijing, China and manages direct investment in China automotive component manufacturers.

Education



Peking University

Intensive Chinese Language Program - Advanced

2009 - 2009



University of Southern California







International Finance, Finance, Mandarin

1994 - 1997

11 Messages

q

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DOCKET NO. 17

Exhibit N

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CEMTREX, INC.,

2:17-cv-01258-JS-AKT

Plaintiff,

v.

RICARDO ANTONIO PEARSON, a/k/a
RICHARD PEARSON and *JOHN DOES No. 1-10*,

Defendants.

NOTICE OF VOLUNTARY DISMISSAL PURSUANT TO F.R.C.P. 41(a)(1)(A)(i)

Plaintiff Cemtrex, Inc., by its counsel hereby voluntarily dismisses this action, without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1).

Despite making seven attempts, Cemtrex has been unable to serve defendant Ricardo Antonio Pearson, a/k/a Richard Pearson ("Pearson"), within the 90-day time limit set forth in Rule 4(m). Given the uncertainty of successful service and the significant expenditure of time and money additional attempts at service will involve, Cemtrex wishes to focus its resources on defending the related putative securities class action litigation resulting from Pearson's false accusations. Cemtrex anticipates that it will prevail in the securities litigation, and reserves the right to re-file its claims against Pearson at that time.

Case 2:17-cv-01258-JS-AKT Document 8 Filed 06/05/17 Page 2 of 2 PageID #: 62

Dated: New York, New York
June 5, 2017

OLSHAN FROME WOLOSKY LLP

By: 

Thomas J. Fleming

Attorneys for Plaintiff

1325 Avenue of the Americas, 15th Floor

New York, New York 10019

(212) 451-2213

DOCKET NO. 18

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

Index No.: 153125/2018

-against-

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.
-----X

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF
ITS EX-PARTE APPLICATION FOR AN ORDER
EXTENDING TIME TO SERVE DEFENDANT AND
DIRECTING MANNER OF SERVICE**

SICHENZIA ROSS FERENCE LLP
1185 Avenue of the Americas, 37th Floor
New York, New York 10036
Tel. No. (212) 930-9700

Attorneys for Plaintiff Vuzix Corporation

On the motion:

Irwin Weltz

Thomas McEvoy

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INTRODUCTION

Plaintiff Vuzix Corporation (“Plaintiff” or “Vuzix”), by and through its counsel, respectfully submits this Memorandum of Law in support of its Ex-Parte Application seeking an Order: (i) pursuant to CPLR §§ 2004 and 306-b, extending the time to effectuate service of the Summons and Verified Complaint and the Notice of Commencement of Action Subject to Mandatory Electronic Filing upon the Defendant Ricardo Antonio Pearson a/k/a Richard Pearson (“Defendant” or “Pearson”), *nunc pro tunc*, to and including one hundred twenty (120) days from the date of the Court’s execution of the Ex-Parte Order; (ii) pursuant to CPLR § 308(5), permitting Plaintiff to serve Defendant via Pearson’s known email addresses rick.pearson@pearsoninvestment.com and info@moxreports.com and at the address of c/o Seeking Alpha Inc., 52 Vanderbilt Ave, Floor 13, New York, N.Y. 10017-3837; and (iii) for such and other further relief in Plaintiff’s favor as the Court deems just and proper.

PRELIMINARY STATEMENT

Vuzix has brought this action against Defendant to recover damages caused by his false and defamatory “short and distort” articles about Vuzix on *MOXReports.com* and *Seeking Alpha* (the “Pearson Articles”). As set forth in the accompanying Affirmation of Irwin Weltz¹ and the exhibits annexed thereto, Vuzix has made diligent efforts in attempting to serve Pearson pursuant to CPLR § 308(1), (2) and (4), but such efforts have been futile due to circumstances entirely beyond its control. Indeed, within less than one month from the action being filed, Vuzix retained Metro Attorney Service Inc. (“Metro”), a process service company, to serve Defendant, and Metro made nine separate visits to three different addresses where online research revealed Pearson resides – all well within 120 days of the action being filed – but each time Pearson either evaded service, was not present, or did not reside at those locations. Accordingly, Vuzix seeks

¹ The Affirmation of Irwin Weltz is referred to as the “Weltz Affirmation.”

an extension of time to serve Defendant upon good cause shown and in the interest of justice pursuant to CPLR § 2004 and § 306-b.

Further, because service on Pearson by conventional methods has proven to be unsuccessful and unfeasible, Vuzix also seeks the Court's permission, pursuant to CPLR § 308(5), to serve Pearson at email addresses provided by Pearson on his LinkedIn page (rick.pearson@pearsoninvestment.com) and on *MoxReports* (info@moxreports.com), which is operated by Pearson, and also via regular U.S. Mail and Federal Express Overnight Mail to Pearson at care of *Seeking Alpha*, where Pearson is a contributing author.

BACKGROUND

A statement of the underlying facts of this matter is set forth in the Verified Complaint,² annexed to the Weltz Affirmation as Exhibit A. A statement of facts concerning Vuzix's efforts to serve Pearson with the Summons and Verified Complaint is also set forth in the Weltz Affirmation and the exhibits annexed thereto, and is incorporated herein.

ARGUMENT

A. Plaintiff's Time to Serve Defendant Should be Extended For "Good Cause" and in the "Interest of Justice"

Plaintiff seeks an extension of time of one hundred twenty (120) days from the date of the Court's execution of the Ex-Parte Order to serve Defendant, *nunc pro tunc*. CPLR § 2004 allows the court to extend a time fixed by statute. CPLR § 306-b provides that if service is not made upon a defendant within the 120 day period, the Court, "upon good cause shown, or in the interest of justice, may extend the time for service." See *Leader v. Maroney, Ponzini & Spencer*,

² Vuzix commenced this action by filing the Summons and Verified Complaint with the Clerk of the Court on April 5, 2018. As discussed *infra*, its application to extend the time to effectuate service is not untimely and should be granted for good cause and in the interest of justice. Moreover, as further requested, Plaintiff should be granted the right to serve Defendant by alternative means since "traditional" methods of serving Defendant have proven to be futile despite Plaintiff's diligent efforts in attempting same.

97 N.Y.2d 95, 104, 736 N.Y.S.2d 291 (2001) (noting that courts have the discretion to grant an extension either “upon good cause shown” or “in the interest of justice”).

“Such extensions of time should be *liberally granted* whenever plaintiffs have been reasonably diligent in attempting service, regardless of the expiration of the Statute of Limitations after filing and before service” *Stryker v. Stelmark*, 69 A.D.3d 454, 892 N.Y.S.2d 102 (1st Dep’t 2010) (*emphasis added*); *see also Campbell v. Starre Realty Co.*, 282 A.D.2d 161, 724 N.Y.S.2d 584 (1st Dep’t 2001) (granting extension when application was made *after* the expiration of the 120 day period, holding that “such extensions should be liberally granted”); *Hafkin v. North Shore Univ. Hosp.*, 279 A.D.2d 86, 89, 718 N.Y.S.2d 379 (2d Dep’t 2000) (in citing legislative history of amendment to CPLR § 306-b, noting that the “proposed revised statute did not require that a motion for an extension of time to serve process in an action be made within the 120-day period”).

Thus, in *Frank v. Garcia*, 84 A.D.3d 654, 923 N.Y.S.2d 529 (1st Dep’t 2011), the Court granted the plaintiff’s motion for an extension of time, finding that she had established good cause for her motion and that the interest of justice warranted an extension *even though* “*her motion was not filed until almost one year after the date of her process server’s affidavit*” regarding his attempts at trying to locate and serve the defendant. *Id.*, at 655 (*emphasis added*); *see also Deutsche Bank, AG v. Vik*, 149 A.D.3d 600, 50 N.Y.S.3d 291 (1st Dep’t 2017) (granting plaintiff’s application for an extension of time to serve even though it “waited to move for the extension until **18 months** after service was contested”) (*emphasis added*).

Under the circumstances presented here, Vuzix has demonstrated that under both the “good cause” and “interest of justice” standards, it is entitled to an extension of one hundred twenty (120) days from the date of the Court’s execution of the Ex-Parte Order to serve Pearson,

nunc pro tunc.

i. Plaintiff Has Shown “Good Cause” for an Extension of Time

Vuzix has more than adequately shown good cause for an extension of time to serve Defendant. “A ‘good cause’ extension requires a showing of reasonable diligence in attempting to effect service upon a defendant. . . . [G]ood cause is likely to be found where the plaintiff’s failure to timely serve process is a result of circumstances beyond [its] control” *Henneberry v. Borstein*, 91 A.D.3d 493, 496, 937 N.Y.S.2d 177 (1st Dep’t 2012); *see Thompson v. City of New York*, 89 A.D.3d 1011, 1012, 933 N.Y.S.2d 701 (2d Dep’t 2011) (finding that plaintiff “exercised diligence by timely filing and twice attempting to serve the defendant with the summons and complaint” within the 120-day service period).

Here, as discussed in the Weltz Affirmation and the exhibits annexed thereto, Vuzix has been more than diligent in attempting service on Pearson. Upon filing the Summons and Verified Complaint with the Court, Vuzix took immediate steps to try to effectuate service on Defendant. Indeed, on *nine separate occasions – all well within 120 days from the action being filed* – Metro attempted to serve Pearson at various addresses based on online searches. (Weltz Affirmation, ¶¶5-11). On May 1, June 8, June 12, June 23, June 26, June 27 and July 5, 2018, Metro attempted service on Pearson at 191 Broadway, Apartment 1E, Dobbs Ferry, New York 10522, where a report from *Intellius.com* (“*Intellius* report”) showed Pearson residing. (*Id.*, at ¶¶5, 6, 7, 10). Each of those attempts at personal service was futile. (*Id.*, at ¶¶7-8).

Moreover, on July 5, 2018, Metro attempted to locate and serve Pearson at 14 Wainwright Avenue, Apartment 2B, Yonkers, New York 10710, another address listed as current in the *Intellius* report. Service at that address was also unsuccessful. (*Id.*, at ¶9).

The *Intellius* report further revealed that a relative of Pearson resided at 191 Broadway,

Apartment 1C, Dobbs Ferry, New York 10522, and Metro attempted service there on July 5, 2018. (*Id.*, at ¶10). As with the other attempts, service was not successful. (*Id.*)

Finally, Metro returned to the first address at 191 Broadway on July 5, 2018, but again was unable to serve Pearson. (*Id.*, at ¶11).

As the foregoing demonstrates, the circumstances preventing Vuzix from effectuating service on Pearson were completely beyond its control, since Metro could neither locate nor serve Defendant on each of the nine separate occasions that it attempted to do so within 120 days of the action being filed. *See Frank*, 84 A.D.3d at 655 (granting plaintiff's application for an extension of time to serve, on the ground that her "papers outline the reasonable steps taken to locate [defendant], including her attempts to serve [him] within the 120 days after the action was filed, and demonstrate that failure to timely serve process was the result of circumstances beyond plaintiff's control, namely, the inability to locate [defendant].") Accordingly, Vuzix has demonstrated "good cause" for an extension of one hundred twenty (120) days from the date of the Court's execution of the Ex-Parte Order to serve Defendant, *nunc pro tunc*.

ii. The "Interest of Justice" Warrants an Extension of Time

Vuzix not only has shown that there is "good cause" for an extension of time, but also that the "interest of justice" warrants such relief. "The Court of Appeals has confirmed that the 'good cause' and 'interest of justice' prongs of [CPLR § 306-b] constitute separate grounds for extensions, to be defined by separate criteria." *Henneberry*, 91 A.D.3d at 495 (citing *Leader*, 97 N.Y.2d at 104-06).

"[T]he interest of justice standard [is] more flexible than the good cause standard" *Id.*, at 495-96. "[T]he interest of justice standard is a broader standard designed to accommodate later service that might be due to mistake, confusion or oversight, so long as there is no prejudice

to the defendant. *De Vries v. Metropolitan Transit Authority*, 11 A.D.3d 312, 313, 783 N.Y.S.2d 540 (1st Dep't 2004).

"In applying the interest of justice standard, the court may consider diligence, or lack thereof, along with any other relevant factor in making its determination, including expiration of the Statute of Limitations, the meritorious cause of action, the length of delay in service, the promptness of a plaintiff's request for the extension of time, and prejudice to defendant No one factor is determinative." *Nunez-Ariza v. Nell*, 161 A.D.3d 614, 78 N.Y.S.3d 38 (1st Dep't 2018).

As noted above and in the Weltz Affirmation, Vuzix attempted service on Plaintiff on *nine separate* occasions at three different addresses, all within the 120-day window of the action being filed. The inability to serve Pearson was not through any lack of reasonable efforts on the part of Plaintiff and, instead, was due to circumstances beyond its control – namely, Plaintiff's inability to locate Defendant despite reasonably diligent efforts in attempting to do so.

Further, not only has Vuzix been extremely diligent in attempting to serve Pearson, but there would be no prejudice to Defendant should an extension of time be granted. Indeed, the Statute of Limitations on Vuzix's cause of action has not run, and will not run until at least March, 2019. Accordingly, the interest of justice militates in favor of extending Vuzix's time to serve Pearson, *nunc pro tunc*, to one hundred twenty (120) days from the date of the Court's execution of the Ex-Parte Order.

B. The Court Should Grant Plaintiff's Request to Serve Defendant at His Known Email Addresses and Via *Seeking Alpha* Pursuant to CPLR § 308(5)

As noted above and in the accompany Weltz Affirmation, Plaintiff has made multiple attempts to serve Pearson by conventional methods without success, and has only located him through his online presence, including email addresses set forth by him and through the Pearson

Articles. Under such circumstances, as demonstrated herein, service by email and through *Seeking Alpha* is the best (and perhaps only) means to apprise Pearson of this action. Accordingly, Plaintiff requests that the Court allow it to serve process on Pearson via his email addresses of rick.pearson@pearsoninvestment.com and info@moxreports.com, and also via regular U.S. Mail and Federal Express Overnight Mail to Pearson at care of *Seeking Alpha*.

CPLR § 308(5) provides that personal service shall be made, “in such manner as the court, upon motion *without notice*, directs, if service is impracticable under paragraphs one, two and four of this section” (*emphasis added*). CPLR § 308(5) vests a court with the discretion to direct an alternative method for service of process when it has determined that the other methods of service set forth in CPLR §§ 308(1), (2) and (4) are impracticable. The impracticability standard does not require the applicant to satisfy the more stringent standard of “due diligence” under CPLR § 308(4), or to make a showing that actual prior attempts to serve a party under each and every method of the statute have been undertaken. *See State St. Bank & Tr. Co. v. Coakley*, 16 A.D.3d 403, 403, 790 N.Y.S.2d 412, 413 (2d Dep’t 2005); *see also Baidoo v. Blood-Dzraku*, 48 Misc. 3d 309, 311, 5 N.Y.S.3d 709, 712 (Sup. Ct., N.Y. Cty. 2015) (upon a plaintiff’s Ex-Parte application, allowed service to be made via social media, finding that a court may direct the manner by which service is to be made and that a court may go beyond any of the specifically prescribed methods of service and devise a method that fits the particular circumstances of the case).

Exercise of a court’s discretion is limited by due process, which requires that the method chosen must be reasonably calculated, under all the circumstances, to apprise a defendant of the pending lawsuit. *See Harkness v. Doe*, 261 A.D.2d 846, 847, 689 N.Y.S.2d 586, 588 (4th Dep’t 1999). In order to be constitutionally adequate, the method of service need not guarantee that the

defendant will receive actual notice. *Id.*; see also *Bossuk v. Steinberg*, 58 N.Y.2d 916, 918, 460 N.Y.S.2d 509, 510 (1983) (finding it “hornbook law” that constitutionally proper substituted service need not guarantee that in all cases the defendant will in fact receive actual notice). Indeed, in the case of persons missing or unknown, employment of an indirect and even a probably futile means of notification is all that the situation permits. *Id.*

A plaintiff can demonstrate that service by conventional means is impracticable by making diligent, albeit unsuccessful, efforts to obtain information regarding a defendant’s current residence, business address or place of abode. See *Snyder v. Energy Inc.*, 19 Misc. 3d 954, 959, 857 N.Y.S.2d 442, 446 (Civ. Ct., N.Y. Cty., April 4, 2008), citing *Franklin v. Winard*, 189 A.D.2d 717, 592 N.Y.S.2d 726 (1st Dep’t 1993). Indeed, both New York courts and Federal courts have, upon application by plaintiffs, authorized e-mail service of process as an appropriate alternative method when the statutory methods have proven ineffective. See *Alfred E. Mann Living Tr. v. ETIRC Aviation S.A.R.L.*, 78 A.D.3d 137, 141-42, 910 N.Y.S.2d 418, 422 (1st Dep’t 2010) citing *Snyder*, 19 Misc.3d 954; see also *Philip Morris USA Inc. v. Veles Ltd.*, No. 06 CV 2988 (GBD), 2007 U.S. Dist. LEXIS 19780, at *5-6 (S.D.N.Y. Mar. 12, 2007) (service made by e-mail and facsimile); *Navika Capital Grp., LLC v. Doe*, No. 14 CV 5968 (DLI) (CLP), 2017 U.S. Dist. LEXIS 2926, at *5-6 (E.D.N.Y. Jan. 6, 2017) (service made by e-mail).

As recently as ten years ago, it was considered a cutting-edge development in civil practice for a court to allow the service of a summons by email. *Baidoo*, 48 Misc. 3d at 310. Since then, email has all but replaced ordinary mail as a means of written communication. And while the legislature has yet to make email a statutorily authorized method for the service of process, courts are now routinely permitting it as a form of alternative service. *Id.*

In this case, as set forth in the accompanying Weltz Affirmation, previous attempts to

serve Pearson by traditional methods at locations where it was believed he would be found were not fruitful. According to Metro, ultimately Pearson could not be found at any known address. Pearson has an online presence, however, in that he: (1) maintains a LinkedIn page, wherein he provides an email address of rick.pearson@pearsoninvestment.com, (2) runs the website *MOXReports.com*, another purported financial website which also provides an email address of info@moxreports.com, and (3) regularly contributes to the financial internet site *Seeking Alpha* since 2009. (Weltz Aff., ¶¶12-18). In fact, Pearson has his own profile page on *Seeking Alpha*, where he has been an active contributor since 2009 with 5,302 followers, 104 Articles, 1 Blog Post, 62 Comments, 18 StockTalks and 2 Likes. (*Id.*, at ¶13). Pearson's profile page on that site also provides a link to *MOXReports*. (*Id.*, at ¶15-16).

Significantly, a litigant's inability to locate Pearson and serve him by traditional means is not without precedence. In *Cemtrex, Inc. v. Ricardo Antonio Pearson a/k/a Richard Pearson and John Does No. 1-10*, Index No. 2:17-cv-01258-JS-AKT in the United States District Court, Eastern District of New York, the plaintiff specifically set forth that it was unable to locate Pearson for service. (*Id.*, at ¶19, Exh. N to Weltz Affirmation). The plaintiff affirmed: "Despite making seven attempts, Cemtrex has been unable to serve defendant Ricardo Antonio Pearson, a/k/a Richard Pearson" (*Id.*). As a result, it voluntarily dismissed the case. (*Id.*)

In short, Defendant's presence appears to be largely online, particularly through *Seeking Alpha* and *MoxReports*, but otherwise is seemingly elusive in the physical realm, as proven by Vuzix's attempts at serving Vuzix by conventional means on nine separate occasions. Accordingly, the Court should permit Plaintiff to serve process on Pearson via his email addresses of rick.pearson@pearsoninvestment.com and info@moxreports.com, and also via regular U.S. Mail and Federal Express Overnight Mail to Pearson at care of *Seeking Alpha*.

CONCLUSION

For the reasons stated, Plaintiff Vuzix Corporation respectfully requests that this Court grant its Ex-Parte Application and enter an Order: (i) pursuant to CPLR §§ 2004 and 306-b, extending the time to effectuate service of the Summons and Verified Complaint and the Notice of Commencement of Action Subject to Mandatory Electronic Filing upon the Defendant Ricardo Antonio Pearson a/k/a Richard Pearson ("Defendant" or "Pearson"), *nunc pro tunc*, to and including one hundred twenty (120) days from the date of the Court's execution of the Ex-Parte Order; (ii) pursuant to CPLR § 308(5), permitting Plaintiff to serve Defendant via Pearson's known email addresses rick.pearson@pearsoninvestment.com and info@moxreports.com and at the address of c/o Seeking Alpha Inc., 52 Vanderbilt Ave, Floor 13, New York, N.Y. 10017-3837; and (iii) for such and other further relief in Plaintiff Vuzix Corporation's favor as the Court deems just and proper.

Dated: New York, New York
November 30, 2018

Respectfully submitted,

SICHENZIA ROSS FERENCE LLP

By: 

Irwin Weltz
Thomas McEvoy
1185 Avenue of the Americas, 37th Floor
New York, New York 10036
Tel. No. (212) 930-9700

*Attorneys for Plaintiff
Vuzix Corporation*

DOCKET NO. 19

REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (7/2012)

New York Supreme COURT, COUNTY OF New York**Index No: 153125/2018****Date Index Issued: 04/06/2018****CAPTION:**

Enter the complete case caption. Do not use et al or et ano. If more space is required, attach a caption rider sheet.

VUZIX CORPORATION

Plaintiff(s)/Petitioner(s)**For Court Clerk Use Only:**

IAS Entry Date

Judge Assigned

RJI Date

-against-

RICARDO ANTONIO PEARSON a/k/a RICHARD PEARSON

Defendant(s)/Respondent(s)**NATURE OF ACTION OR PROCEEDING:**

Check ONE box only and specify where indicated.

MATRIMONIAL☐ Contested**NOTE:** For all Matrimonial actions where the parties have children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum**. For Uncontested Matrimonial actions, use RJI form UD-13.**TORTS**☐ Asbestos☐ Breast Implant☐ Environmental:☐ Medical, Dental, or Podiatric Malpractice☐ Motor Vehicle☐ Products Liability:☐ Other Negligence:☐ Other Professional Malpractice:☒ Other Tort: Defamation**OTHER MATTERS**☐ Certificate of Incorporation/Dissolution [see **NOTE** under Commercial]☐ Emergency Medical Treatment☐ Habeas Corpus☐ Local Court Appeal☐ Mechanic's Lien☐ Name Change☐ Pistol Permit Revocation Hearing☐ Sale or Finance of Religious/Not-for-Profit Property☐ Other:**COMMERCIAL**☐ Business Entity (including corporations, partnerships, LLCs, etc.)☐ Contract☐ Insurance (where insurer is a party, except arbitration)☐ UCC (including sales, negotiable instruments)☐ Other Commercial:**NOTE:** For Commercial Division assignment requests [22 NYCRR § 202.70(D)], complete and attach the **COMMERCIAL DIV RJI Addendum**.**REAL PROPERTY:** How many properties does the application include?☐ Condemnation☐ Mortgage Foreclosure:☐ Residential☐ Commercial

Property Address:

NOTE: For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the **FORECLOSURE RJI Addendum**.☐ Tax Certiorari - Section:

Block:

Lot:

☐ Tax Foreclosure☐ Other Real Property:**SPECIAL PROCEEDINGS**☐ CPLR Article 75 (Arbitration) [see **NOTE** under Commercial]☐ CPLR Article 78 (Body or Officer)☐ Election Law☐ MHL Article 9.60 (Kendra's Law)☐ MHL Article 10 (Sex Offender Confinement-Initial)☐ MHL Article 10 (Sex Offender Confinement-Review)☐ MHL Article 81 (Guardianship)☐ Other Mental Hygiene:☐ Other Special Proceeding:**STATUS OF ACTION OR PROCEEDING:**

Answer YES or NO for EVERY question AND enter additional information where indicated.

YES NO

Has a summons and complaint or summons w/notice been filed?

☒☐

If yes, date filed: 04/05/2018

Has a summons and complaint or summons w/notice been served?

☐☒

If yes, date served:

Is this action/proceeding being filed post-judgment?

☐☒

If yes, judgment date:

NATURE OF JUDICIAL INTERVENTION

- ☐ Infant's Compromise
☐ Note of Issue and/or Certificate of Readiness
☐ Notice of Medical, Dental, or Podiatric Malpractice Date Issue Joined:
☐ Notice of Motion Relief Sought:
☐ Notice of Petition Relief Sought:
☐ Order to Show Cause Relief Sought:
☒ Other Ex Parte Application Relief Sought: Extend - Time
☐ Poor Person Application
☐ Request for Preliminary Conference
☐ Residential Mortgage Foreclosure Settlement Conference
☐ Writ of Habeas Corpus
☐ Other:

Return Date:

Return Date:

Return Date:

RELATED CASES:

List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases. If additional space is required, complete and attach the **RJI Addendum**. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case

PARTIES:

For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided. If additional space is required, complete and attach the **RJI Addendum**.

Un-Rep	Parties:	Attorneys and/or Unrepresented Litigants:	Issue Joined (Y/N):	Insurance Carrier(s):
	List parties in caption order and indicate party role(s) (e.g., defendant; 3rd-party plaintiff).	Provide attorney name, firm name, business address, phone number and e-mail address of all attorneys that have appeared in the case. For unrepresented litigants, provide address, phone number and e-mail address.		
<input type="checkbox"/>	Name: VUZIX CORPORATION Role(s): Plaintiff/Petitioner	THOMAS MCEVOY, SICHENZIA ROSS FERENCE KESNER, LLP, 1185 Avenue of The Americas FL 37 , New York, NY 10036, tmcevoy@srfklp.com	YES	
<input checked="" type="checkbox"/>	Name: PEARSON, RICARDO A. Role(s): Defendant/Respondent	191 Broadway, Apt. 1E, Dobbs Ferry, NY 10522	NO	
<input type="checkbox"/>	Name: Role(s):			
<input type="checkbox"/>	Name: Role(s):			
<input type="checkbox"/>	Name: Role(s):			

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 11/30/2018

THOMAS PATRICK MCEVOY

SIGNATURE

5123633

ATTORNEY REGISTRATION NUMBER

THOMAS PATRICK MCEVOY

PRINT OR TYPE NAME

DOCKET NO. 20

At an Ex Parte Part of the
Supreme Court, New York
County, located at 60 Centre
Street, New York, on the 3rd
day of Dec.,
2018

O. PETER SHERWOOD

PRESENT: _____, J.S.C.

-----X
VUZIX CORPORATION,

Plaintiff,

Index No.: 153125/2018

-against-

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.
-----X

**ORDER DIRECTING
MANNER OF SERVICE
AND EXTENDING
TIME TO SERVE**

UPON reading the Affirmation of Irwin Weltz, Esq., dated the 30th day of November, 2018, the exhibits annexed thereto, the accompanying memorandum of law and upon all of the pleadings and proceedings heretofore had herein, by which Plaintiff Vuzix Corporation ("Plaintiff") has made proof that "good cause" and the "interest of justice" warrant an extension of time to effectuate service on Defendant Ricardo Antonio Pearson a/k/a Richard Pearson ("Defendant") pursuant to CPLR Section 306-b, and that service of the Summons and Verified Complaint herein upon Defendant is impracticable under Paragraphs 1, 2, or 4 of CPLR Section 308.

NOW, upon motion of Sichenzia Ross Ference LLP, attorneys for the Plaintiff herein, for an Order of this Court extending the time to effectuate service and directing the manner in which the Summons and Verified Complaint shall be served upon said Defendant, it is hereby

ORDERED, that Plaintiff's time to complete service of the Summons and Verified Complaint upon Defendant, along with a copy of this order, is extended to and including one hundred twenty (120) days from the

date of this Order; said time to expire on April 2, 2019.

ORDERED, that pursuant to CPLR Section 308(5), a copy of this Order, the Summons and Verified Complaint and the Notice of Commencement of Action Subject to Mandatory Electronic Filing shall be served upon Defendant by: (1) e-mailing copies thereof to rick.pearson@pearsoninvestment.com and info@moxreports.com with the subject line of the e-mails stating "LEGAL PAPERS OPEN ATTACHMENT IMMEDIATELY"; and (2) sending a copy thereof to Ricardo Antonio Pearson a/k/a Richard Pearson, c/o Seeking Alpha Inc., 52 Vanderbilt Ave, Fl 13, New York, N.Y., 10017-3837 via regular U.S. Mail and Federal Express Overnight Mail and that proof of said forms of service be filed with this Court.

ORDERED, that the granting of this order is in no way determinative of the tolling & the statute of limitations or other issues & repose, should such issues arise.

ENTER:
D.P.
J.S.C.

DOCKET NO. 21

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
VUZIX CORPORATION,

Plaintiff,

Index No.: 153125/2018

-against-

**AFFIRMATION OF
SERVICE**

RICARDO ANTONIO PEARSON a/k/a
RICHARD PEARSON,

Defendant.

-----X
THOMAS McEVOY, an attorney duly admitted to practice law before the Courts of the
State of New York, affirms the truth of the following under the penalties of perjury:

1. I am an associate at Sichenzia Ross Ference LLP, attorneys for the Plaintiff Vuzix Corporation ("Plaintiff" or "Vuzix") in the above-captioned case. As such, I am fully familiar with the facts and circumstances set forth herein.

2. On January 3, 2019, pursuant to this Court's Order Directing Manner of Service and Extending Time to Serve, dated December 3, 2018 (and entered on December 4, 2018) ("Order"), I caused to be served a copy of the Order; the Plaintiff's Summons and Verified Complaint; and the Notice of Commencement of Action Subject to Mandatory Electronic Filing, on Defendant Ricardo Antonio Pearson a/k/a Richard Pearson ("Defendant") by regular U.S. Mail, by enclosing a true and correct copy thereof in a securely sealed and post-paid wrapper with the words "PERSONAL AND CONFIDENTIAL" typed on the same envelope, and not indicating on the outside that it is from an attorney, and depositing the same into an official depository maintained by the Government of the United States, City and State of New York, addressed as follows:

Ricardo Antonio Pearson
a/k/a Richard Pearson
c/o Seeking Alpha Inc.
52 Vanderbilt Ave
Fl 13
New York, N.Y., 10017-3837

3. On January 3, 2019, pursuant to this Court's Order, I further caused to be served a copy of the Order; the Plaintiff's Summons and Verified Complaint; and the Notice of Commencement of Action Subject to Mandatory Electronic Filing, on Defendant by Federal Express Overnight Mail, by enclosing a true and correct copy thereof in a securely sealed and post-paid wrapper with the words "PERSONAL AND CONFIDENTIAL" typed on the same envelope, and not indicating on the outside that it is from an attorney, and entrusting the same to an official employee of Federal Express, addressed as follows:

Ricardo Antonio Pearson
c/o Seeking Alpha, Inc.
52 Vanderbilt Ave
Fl 13
New York, NY 10017

4. On January 3, 2019, pursuant to this Court's Order, I further caused to be served a copy of the Order; the Plaintiff's Summons and Verified Complaint; and the Notice of Commencement of Action Subject to Mandatory Electronic Filing, on Defendant by electronic mail to rickpearson@pearsoninvestment.com and info@moxreports.com, by attaching a true and correct copy thereof with the subject line of the electronic mails stating "LEGAL PAPERS OPEN ATTACHMENT IMMEDIATELY".

Dated: New York, New York
January 8, 2019



THOMAS McEVoy